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ABSTRACT

This study examines the current status of Title IX implementation in Washington, Oregon, Alaska, and Idaho (Region X). The two major issues addressed are: (1) the status of the implementation of Title IX in Region X and perspectives, issues, and processes which have an effect on its implementation; and (2) implementation models and supportive organizational roles and resources which are necessary to encourage voluntary, positive compliance actions by affected educational agencies and institutions in Region X. An overview is provided of Title IX and efforts to eliminate sex discrimination in such areas as admissions, courses of study, sports, career counseling, scholarships and awards, and extracurricular activities. Problems arising from the confusion over the regulations, lack of clear policy interpretations, and the financial impact of Title IX implementation on school budgets are discussed. Major findings, conclusions, and recommendations concerning Title IX implementation in public schools and institutions of higher education are outlined. In addition, case studies of six successfully implemented Title IX programs are presented. Appendices include a detailed description of the methodology used in the study, sample questionnaires, and an analysis of Title IX regulations. (Author/EB)

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THE STATUS OF TITLE IX IN REGION X

An Evaluation of Models and Barriers to Implementation of Title IX of the Education Amendments of 1972, for Region X of the U.S. Department of Health, Education and Welfare.

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CHAPTER
I

INTRODUCTION

On June 23, 1972, the 92nd Congress of the United States passed Title IX of the 1972 Education Amendments to ensure that schools and colleges, both public and private, which receive federal tax dollars offer equal opportunities in education to men and women. The U.S. Congress passed Title IX after hearings revealed extensive inequities based on sex throughout American education in such areas as career orientation, scholastic programs, and athletic offerings for students, and in employment and benefits for faculty and staff. For example:[1]

> *Discriminatory enrollment procedures and counseling limited program offerings for girls and boys. At the secondary level, for instance, girls were frequently denied the opportunity to enroll in courses such as industrial arts, and boys denied the opportunity to enroll in programs such as home and family life education. This was sometimes the result of overtly discriminatory school policies which prohibited non-traditional enrollments. But even when there were no course enrollment restrictions, non-traditional enrollments were discouraged because students were frequently counseled to enroll in their respective traditional male or female career courses.*
>
> *Women and girls did not have equal athletic opportunities. A study conducted by the American Council on Education found that "at most institutions the women's athletic budget amounted to an equivalent of about 2% of the men's budget."*
>
> *Women were not receiving equal employment opportunities in education. A national survey conducted in 1970-71 by the National Education Association showed that while women constituted 67% of all public school teachers, they accounted for only 15% of the principals and 0.6% of the superintendents. Most of the women holding administrative positions were confined to the elementary school level. Women represented 19% of the nation's elementary school principals and three percent of the senior high school principals.*
>
> *Furthermore, a study by the National Center for Educational Statistics revealed that as of 1973, women college faculty members received average salaries almost $2,500 less than those of their male counterparts. The study also showed that 9.7% of female faculty members had achieved the rank of professor, contrasted with 25.5% of male members.*

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[1] *The four examples were published in the DHEW Fact Sheet, U.S. Department of Health, Education and Welfare, June, 1975.*

Title IX was enacted to correct these and other educational inequities based on sex. Under Title IX, the local education agency, private school, or higher education institution has the responsibility to eliminate sex discrimination from its educational operations. The law requires students to be offered equal treatment in such areas as admissions, courses of study, sports, career and course counseling, scholarships and awards, and extracurricular activities. Employees of educational agencies and institutions are guaranteed equal treatment in such areas as recruitment, hiring, lay-offs, salaries, promotions, and benefits.

The U.S. Department of Health, Education and Welfare (DHEW) is responsible for administering Title IX. The DHEW charge is to explain Title IX requirements to schools and the public, investigate charges of discrimination filed by citizens, and initiate investigations of local agencies and institutions to determine Title IX compliance. The Office of Education of DHEW has the responsibility to provide assistance with local implementation of Title IX. The Office for Civil Rights of DHEW is responsible for Title IX enforcement. Both the assistance and enforcement functions are provided through ten DHEW regional offices. Region X, the area of the study, covers the states of Washington, Oregon, Alaska, and Idaho.

CHAPTER II

BACKGROUND

Title IX is a civil rights law enacted to eliminate sex discrimination in education. The U.S. Congress recognized at the time of the passage of Title IX that most educational programs were based upon a tradition which assumed men were the breadwinners, women would stay home to raise a family, and that the educational needs of each sex were different. The U.S. Congress further recognized that the social and economic structure of society had changed and that neither male nor female students were being provided equal access to the education they needed from the existing school programs.

Traditions die hard. Despite the documented need for equity in education, arguments mounted over what constituted sex discrimination and whether the federal government had the authority to take corrective action. It was evident at the time of enactment of Title IX that if the federal law were to be successfully implemented, the diverse opinions on its purpose and coverage would have to be reconciled.

This reconciliation never occurred during the formulation of the law and its regulations, nor has it occurred during the six-year administrative life of Title IX. The scope of coverage of the act, as well as the implementation and enforcement provisions of the regulations, have been questioned, criticized, and litigated:

Certain aspects of the scope of Title IX coverage have been repeatedly challenged. For example, the coverage of educational employees, athletics, and religious and private schools was contested during the Congressional hearings on the preliminary Title IX regulations and later in extensive litigation. Because of the debate over the scope of Title IX coverage, the U.S. Congress did act to exempt certain types of institutions, as set forth in Sections 86.12 and 86.13 of the regulations. Congress twice amended the law to exempt certain social fraternities and sororities and, later, to exempt other certain student activities. Meanwhile, Title IX coverage of athletics and educational employees continues to be contested in court.

The Department of Health, Education and Welfare (DHEW) has been criticized for its administration of Title IX. Local educators cite DHEW's inability to promptly provide clear and consistent policy interpretation of the regulations, and feel there is a general lack of information and direction from regional and national DHEW offices. The educators indicate that the relationships between local, state, and federal education agencies are not clear to them. Nor do they understand the separation of the enforcement responsibilities of the DHEW Office for Civil Rights from the assistance responsibilities of the DHEW Office of Education.

> *The lack of enforcement of Title IX has been criticized. A 1977 report by PEER, of the NOW Legal Defense and Education Fund,[1] cited statistics that only one in five of the 858 complaints filed during four years had been resolved in 1976; that the cases DHEW did resolve waited an average of 14 months for final action; and that only 7.1 percent of all the complaints were investigated and resolved within six months.*

This brief discussion of the questioning and criticism of Title IX illustrates the current context of Title IX implementation. Despite the fact that almost 10,000 comments were received by DHEW prior to issuing the final regulations, controversy and litigation over the meaning and intent of the regulations continues.

During 1977, the Office of the DHEW Region X Director conducted a series of meetings with educators from Washington, Oregon, Alaska and Idaho to discuss federal and state educational issues and problem areas. During the meetings, educators cited Title IX implementation problems arising from the confusion over the regulations, the lack of clear policy interpretations, and the financial impact of Title IX implementation on school budgets. In response to these concerns, the Office of the Region X Director requested that a study be conducted on Title IX implementation within the Region.

The specific objectives to be accomplished by the study are to:

(1) Identify the status of the implementation of Title IX in Region X, as well as those perspectives, issues and processes which have an effect on its implementation.

(2) Identify implementation models and supportive organizational roles and resources which are necessary to encourage voluntary, positive compliance actions by affected educational agencies and institutions in Region X.

There are several reasons why a major objective of the study was the identification of ways to encourage voluntary, positive compliance with Title IX. First, voluntary compliance was emphasized during the 1975 Congressional hearings on the proposed Title IX regulations. Many individuals testified on the need to maintain local perogative and for the government to therefore encourage voluntary compliance. As a result, the Title IX regulations provide for self-evaluation, voluntary affirmative action, and an internal grievance procedure as means for education agencies and institutions to work towards compliance on their own, without federal intervention. In addition, the regulations foster voluntary compliance by allowing an institution, which is found to be out of compliance, an opportunity to achieve compliance within a certain period of time before a penalty is imposed.

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[1] *Stalled At The Start, Project on Equal Education Rights, NOW Legal Defense and Education Fund, Washington, D.C., 1977, 1978.*

Second, during 1977, the Office for Civil Rights was in the process of developing extensive plans for enforcing the Title IX regulations and there was therefore a growing emphasis on enforcement. The Office of the Region X Director believed, however, that a balanced perspective on Title IX implementation was needed which encompassed both voluntary compliance and enforcement. It was reasoned that while certain physical or environmental changes could be achieved through enforcement of the regulations, a positive, supportive attitude on the part of school personnel and community members was necessary to fully implement Title IX.

A contract to perform the proposed study was issued to the firm of Miller and Associates, Inc., of Olympia, Washington. This report documents the study methodology, findings, conclusions and recommendations. It is organized in the following manner.

Chapter I

Provides a brief introductory overview of Title IX.

Chapter II

Discusses some of the Title IX issues and problems which provided the impetus for this study of Title IX implementation in DHEW Region X.

Chapter III

Describes briefly the methodology used by the Contractor to conduct the study. Appendix I to the report provides a more detailed discussion of the methodology.

Chapter IV

Presents the major findings of the study.

Chapter V

Discusses the conclusions and recommendations of the study.

Chapter VI

Contains six site studies of Title IX implementation in local agencies and institutions within Region X.

CHAPTER III

SUMMARY OF METHODOLOGY

The methodology of the study included: (1) a review of background information regarding the enactment of Title IX, and an analysis of the formulation and administration of Title IX regulations, (2) a written survey of Title IX coordinators and local administrators, (3) onsite visits to study selected examples of Title IX implementation, and (4) review of all data with an advisory panel.

REVIEW OF TITLE IX

Three tasks were performed in the review of Title IX. The first task was to examine the Title IX statute, its legislative history, regulations, and technical assistance materials to provide a source of reference for the project. A narrative description of the legislative history of Title IX was prepared and serves as the first technical working paper of the project (see the Appendix).

A second task in the review of Title IX was to study the regulation formulation process in order to determine whether the spirit and intent of the federal act was met, and to determine whether implementation difficulties were a result of inadequacies in the formulation process. This review was described narratively, and comprises the second technical working paper of the project (see the Appendix). Included in the technical working paper are recommendations for improving the DHEW regulation formulation process.

The information compiled in the first and second tasks was incorporated into a summary table which traces the development of each major policy area of Title IX from its legislative origins to issuance of preliminary and final regulations (see the Appendix).

A third task in the review of Title IX was the review of state laws and regulations in Region X regarding sex discrimination in education and comparison of the coverage of the federal laws and regulations to state laws and regulations. The identification of state laws and regulations was prepared in a narrative form and comprises the third technical working paper of the project (see the Appendix).

CONDUCT WRITTEN SURVEYS

Questionnaires were developed and distributed to both Title IX coordinators and administrative officials to aid in determining the status of Title IX implementation in the four states, and to provide local educators with the opportunity to share their perceptions about Title IX implementation.

Two different questionnaires were developed for the two distinct audiences. The Title IX Coordinator Questionnaire was comprehensive, while the Administrative Official Questionnaire addressed much broader perspectives of Title IX. The questionnaires included both open-ended and fixed response questions.

The survey encompassed both public and private schools and institutions at the two educational levels of kindergarten through twelfth grade (K-12) and higher

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education. The universe of the K-12 level included all school districts and private schools in the four states of Region X. The universe of the higher education level included all community colleges, public universities, and private institutions in the four states.

The response rates obtained were 47% for the K-12 level and 68% for the higher education level. The number of responses received from the K-12 level was 219, which was 84 short of the projected total returns. The shortfall in returns was felt to be partially caused by a lack of participation by private schools. Of the 151 private K-12 agencies which were contacted, only 13% responded. By comparison, of the 315 public school districts which were contacted, 64% responded. Similarly, the returns from higher education were primarily from public institutions. Of the 38 private higher education institutions contacted, 47% responded. Of the 79 public institutions contacted, 78% responded.

CONDUCT SITE VISITS

On-site visits were conducted to: (1) provide field observations to supplement the written survey data, (2) provide insight into the elements of successful Title IX implementation, and (3) prepare examples of Title IX implementation for the information of others.

The emphasis in the on-site reviews was on identification of successful approaches to Title IX implementation and the remedial steps which local agencies and higher education institutions took to meet Title IX objectives. Four steps were taken to select the school districts, schools, and institutions to be visited. The first step was to identify, with the assistance of the project's advisory panel, criteria for selecting local education agencies and identify potential sites. The second step was to conduct preliminary interviews with Title IX coordinators at 35 potential study sites identified by the advisory panel. The third step in selecting the sites to be visited was to review the results of the preliminary interviews with the project's advisory panel. The fourth step was to develop visitation schedules. Two four-year institutions were scheduled for study, a private and a public university. The private school subsequently declined to participate and the final schedule included nine site visits: five school districts, three community colleges, and a public university.

During the site visits, both written and verbal information was obtained. The written information included copies of the institution's self-evaluation, reports on Title IX progress, correspondence, and other materials relating to the historical development of Title IX achievements. Those interviewed included administrators, the Title IX coordinator, staff, faculty, advisory committee members, and students. In each instance, the principle factors and individuals involved in Title IX implementation were identified. The importance and role of those elements were then verified by obtaining as many perspectives as possible from a variety of individuals.

The results of the site visits were docu-

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mented and reviewed with the project's advisory panel. Six were selected for development into narrative studies. The selection was based upon the suitability of the sites' programs to serve as examples of Title IX implementation. It was desired to represent in the studies as many educational levels, types of program activities, barriers and success factors as possible.

REVIEW WITH ADVISORY PANEL

A fourth element of the project's methodology was to consult with an advisory panel which included state education agency administrators, staff of the Central Office for Civil Rights, the Office of the DHEW Region X Director, special interest groups particularly concerned with the implementation of Title IX, technical assistance specialists, experts in the dissemination of educational methods and models, designated Title IX coordinators in local schools and institutions, and students. The thirteen-member panel provided representation from all four states of Region X, ethnic representation, and representation of both males and females. All of the panel members are knowledgeable of Title IX.

Two of the advisory panel members served as special consultants to the project: Dr. Helen Remick, Director of Affirmative Action for Women, University of Washington; and Dr. Howard Coble, Superintendent of the Olympia School District, Washington State.

CHAPTER IV

FINDINGS

The study findings presented in this chapter are derived from four sources. These are: (1) written survey responses from Title IX coordinators and school administrators; (2) Title IX implementation interviews conducted on-site with administrative, faculty, student and community representatives at selected local education agencies, community colleges and universities; (3) discussions with an advisory panel consisting of federal, state, and local education agency administrators and employees, and student representatives; and (4) independent research conducted by the Contractor regarding the development and implementation of Title IX regulations.

The findings illustrate Title IX implementation in public school districts and institutions of higher education. The study was planned to encompass both public and private education. Private as well as public schools and institutions were asked to participate in the written survey. However, few private schools chose to participate and the survey data therefore reflects the perspectives of public education. For instance, of the 151 private K-12 schools contacted in the written survey, only 19 responded. By comparison, of the 315 public school districts which were contacted, 200 responded. For higher education, 18 of the 38 private institutions responded to the questionnaire and 62 of the 79 public institutions responded. The private schools and institutions declined participation because they "did not participate in Title IX", because of a religious belief in the separation of church and state, lack of a Title IX coordinator, or lack of time to participate.

The study findings are grouped into the following categories:

I. Status of Implementation

This section presents findings on the overall compliance achieved in Region X.

II. Attitudes

This category identifies the role of attitudes in the implementation of Title IX. The written survey provided data on the perspectives of Title IX coordinators and administrators, which has been supplemented with information on attitudes obtained during site visits from administrators, staff, faculty, students, and community members.

III. Finances

Lack of financial resources was studied as a potential barrier to Title IX implementation. The findings in this category discuss the importance of financial resources and also the different types of expenditures made to achieve equal opportunity.

IV. The Title IX Regulations

The findings in this section reflect the effect a lack of understanding of the regulations has on compliance. Discussed are the areas of the regulations which are least understood and the reasons for incomplete understanding of the regulations.

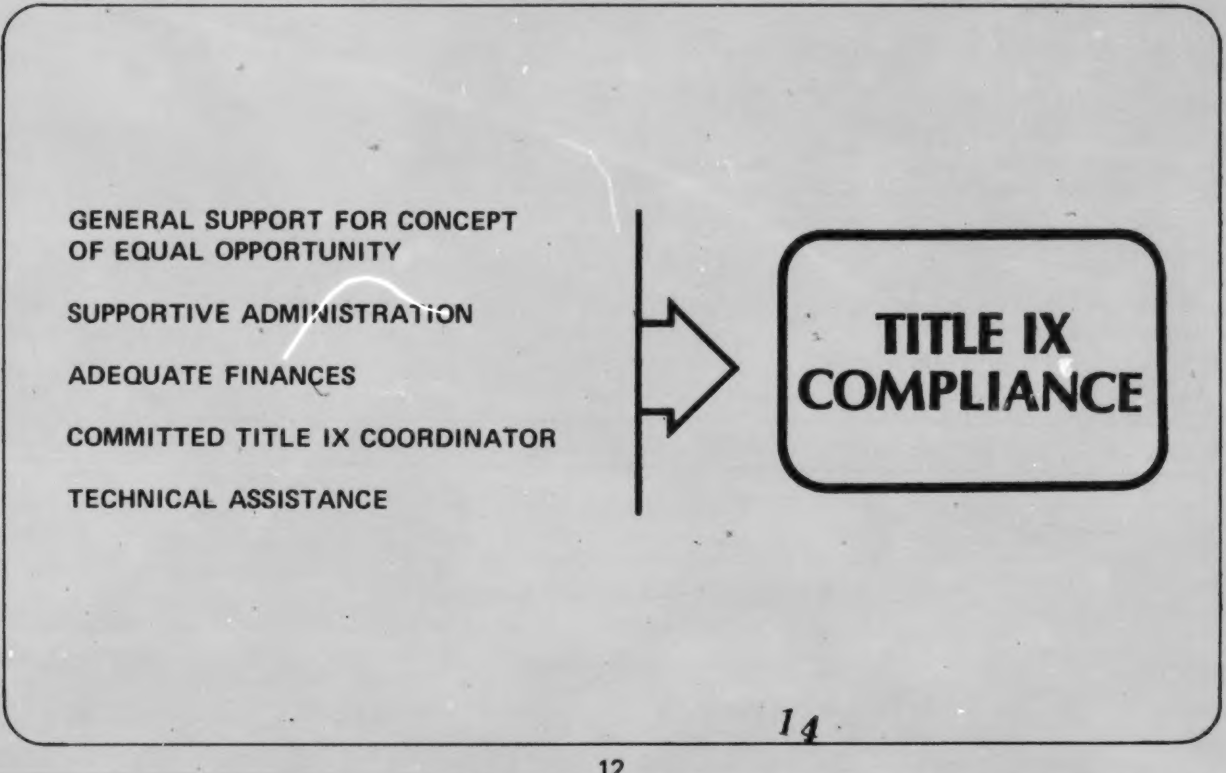
V. The Role of the Title IX Coordinator

The Title IX regulations require that each school or institution designate an employee to coordinate Title IX efforts. The findings of this section identify characteristics of Title IX coordinators and the role of coordinators in fulfilling the requirements of Title IX.

VI. Technical Assistance

This category of findings identifies types of assistance which are helpful to local education agencies and institutions of higher education in implementing Title IX.

FACTORS CRITICAL TO IMPLEMENTATION


GENERAL SUPPORT FOR CONCEPT OF EQUAL OPPORTUNITY
SUPPORTIVE ADMINISTRATION
ADEQUATE FINANCES
COMMITTED TITLE IX COORDINATOR
TECHNICAL ASSISTANCE
TITLE IX COMPLIANCE

I

THE STATUS OF TITLE IX IMPLEMENTATION IN REGION X

FINDING No. 1: **The majority of Title IX coordinators consider their agencies and institutions to be "in compliance" with Title IX.**

The survey responses indicate that respondents believe they are in compliance with the nine major areas of the regulations listed in the survey.

Title IX coordinators most often report compliance with requirements for equal provision of insurance for both sexes, and the treatment of pregnancy as a temporary disability.

> *99% of K-12 level coordinators and 89% of higher education coordinators consider their institutions to be in compliance with the requirements on provision of insurance.*

> *95% of K-12 level coordinators and 88% of higher education coordinators consider their institutions to be in compliance with the pregnancy-related requirements.*

Title IX coordinators least often report compliance to the requirements for athletics and the maintenance of records on Title IX efforts.

> *73% of K-12 level coordinators and 57% of higher education coordinators consider their institutions to be in compliance with athletic requirements.*

> *68% of K-12 level coordinators and 71% of higher education coordinators consider their institutions to be in compliance with the requirement to record self-evaluations and resulting Title IX actions.*

STATUS . . .

FINDING No. 2:

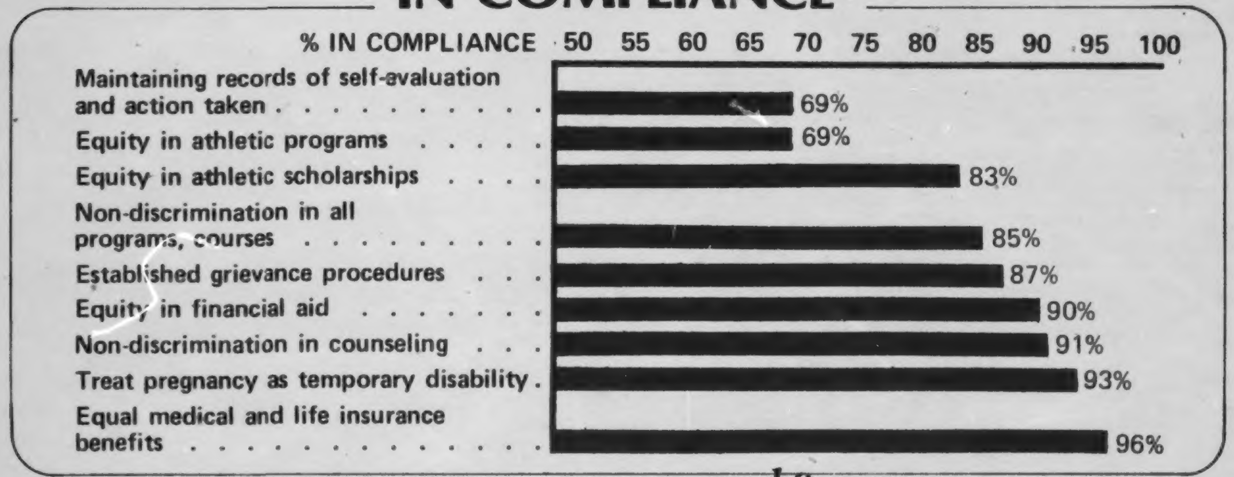
On-site studies of Title IX implementation indicate that full compliance has not been achieved by most agencies and institutions.

It was observed during the site visits that most local education agencies and institutions are in partial compliance rather than full compliance.

> *Typically, the regulations most often complied with are procedural in nature; ie, those requiring the performance of a self-evaluation, appointment of a Title IX coordinator, preparation of grievance procedures, and preparation and dissemination of notification materials. Substantial variation was found in the degree of compliance to other Title IX requirements on marital/parental status, athletics, financial aid, counseling, housing, course offerings, and employment.*

It was observed during site visits that a condition of "paper compliance" exists in most agencies and institutions. Paper compliance describes a situation in which the agency makes a minimal interpretation of the regulations and exerts a minimal effort to comply. The agencies and institutions state that compliance has been achieved, but modifications to policies and practices are superficial. Self-evaluations are not comprehensive, sex-biased attitudes persist in staff and faculty, and no effort is made to promote Title IX nor examine programs in-depth for sex discrimination.

TITLE IX COORDINATORS SAY THEY ARE IN COMPLIANCE



II

ATTITUDES AS A FACTOR INFLUENCING TITLE IX IMPLEMENTATION

FINDING No. 1: **Lack of support for Title IX objectives is currently a major barrier to implementation.**

Title IX is not a high priority.

50% of the Title IX coordinators who responded to the written survey indicate that a moderate to low priority is given to Title IX in their local school districts and institutions.

Among local education agencies in metropolitan, suburban, urban, and rural areas, more urban school districts give Title IX a high priority, while more rural districts give it a low priority.

Sex-biased attitudes and apathy are major problems.

60% of the Title IX coordinators responding to the survey believe that the persistence of sex-biased attitudes continues to restrict Title IX implementation.

67% of the Title IX coordinators responding to the survey consider apathy towards Title IX action a continuing problem.

Title IX lacks support from faculty, students, and the community.

Of Title IX coordinators at the K-12 level responding to the survey:

45% indicate moderate to low faculty support,

49% indicate moderate to low student support, and

66% indicate moderate to low community support.

Of Title IX coordinators in higher education responding to the survey:

58% indicate low to moderate faculty support,

55% indicate low to moderate student support, and

74% indicate low to moderate community support.

ATTITUDES . . .

FINDING No. 2:

The active, committed support of administrative officials is critically important to implementing Title IX ("administrative officials" includes superintendents at the K-12 level and, in higher education, presidents and their primary assistants).

Administrative support is highly variable.

> *Site visits indicate that administrative support for Title IX ranges from reluctant acceptance (complying to the minimum required by law) to active, committed support (acting in the spirit of the law).*

Administrative support is important to successful implementation.

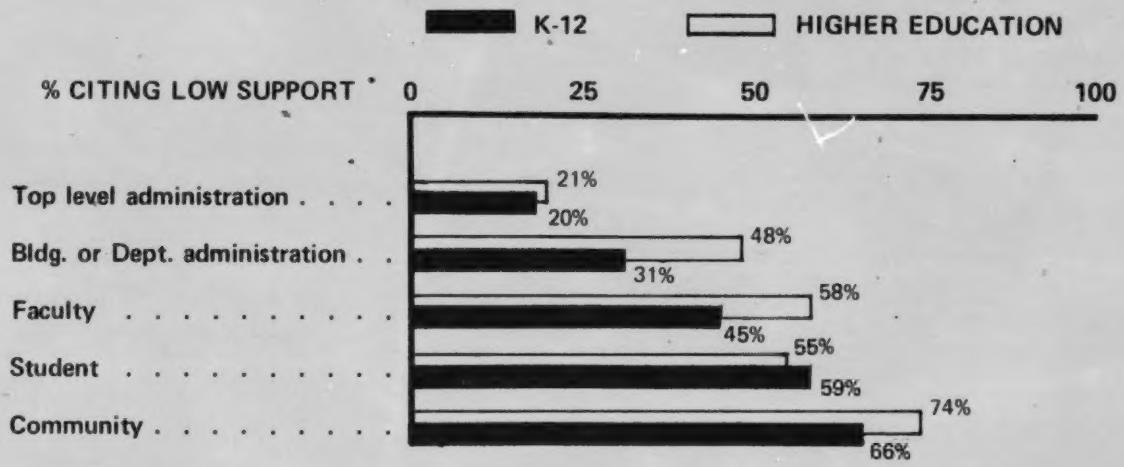
> *85% of Title IX coordinators at the K-12 level indicate that administrative support is an important factor to the successful implementation of Title IX.*

> *94% of higher education Title IX coordinators say administrative support is an important factor to successful implementation of Title IX.*

Administrative support is not now present in all institutions and local education agencies.

> *70% of Title IX coordinators at the K-12 level say they do not have administrative support of Title IX implementation.*
>
> *In higher education, 65% of the Title IX coordinators indicate they still do not have administrative support.*

TITLE IX LACKS SUPPORT



ATTITUDES . . .

FINDING No. 3:

Implementation of Title IX is more successful when it is based upon the spirit of the law and not the letter of the law.

Two general perspectives of Title IX were observed during site visits.

> *One perspective is that the provision of equal opportunity is good education. Individuals with this point of view describe themselves as attempting to meet the spirit of the law. Their implementation of Title IX is positive, voluntary, and comprehensive. Title IX actions are taken regardless of financial problems or a lack of widespread support or technical assistance with the regulations. Title IX is a priority with these individuals and they effect changes to eliminate sex discrimination.*

> *The other perspective is that Title IX is a limited "women's issue" or an example of federal intervention into local administration. This perspective results in compliance to the letter of the law. Title IX is not a priority with these individuals and implementation is easily stymied. The individuals await resolution of any financial difficulties and clarification of technical questions on the regulations.*

ATTITUDES . . .

FINDING No. 4:

Title IX implementation is most successful when it is supported systemwide by the administration, faculty, students, and community.

Title IX coordinators contacted in the written survey consider support from all levels to be important to Title IX implementation.

> *Of the Title IX coordinators at the K-12 level:*
>
> *85% consider a supportive administration an important factor in Title IX implementation,*
>
> *80% consider faculty support an important factor, and*
>
> *59% consider an aware student body an important factor.*
>
> *Of the Title IX coordinators in higher education:*
>
> *94% consider a supportive administration important,*
>
> *90% consider faculty support an important factor, and*
>
> *75% consider an aware student body important to implementation.*

It was observed during site visits that when a K-12 level administrator is committed to providing equal educational opportunity, this commitment is readily transmitted throughout the educational structure. The systemwide support results in thorough institutional self-evaluations, comprehensive implementation plans developed with the assistance of community members, and periodic monitoring of implementation progress.

At the higher education level, it was observed during site visits that while total institutional support is important, it is more difficult to obtain than at the K-12 level.

> *Higher education is characterized by a decentralized organization which reduces the influence of the president in setting the direction for Title IX implementation.*
>
> *Furthermore, the community has less influence on higher education activities than on K-12 level institutions. Higher education has an extended community of legislators and supportive citizens at city, state, and national levels, in contrast to the K-12 level community of concerned parents and citizens within a geographical boundary.*

III

FINANCES AS A FACTOR INFLUENCING TITLE IX IMPLEMENTATION

FINDING No. 1: **Limited finances are an obstacle to Title IX implementation.**

Both Title IX coordinators and administrators surveyed rank limited finances as the most difficult obstacle to Title IX compliance.

The majority of K-12 and higher education institutions have made expenditures to come into compliance with Title IX.

> *68% of the K-12 Title IX coordinators who were contacted say Title IX-related expenditures have been made.*
>
> *77% of the higher education Title IX coordinators indicate in the survey that expenditures have been made.*

The majority of the expenditures are for athletics and physical education program revisions.

> *Title IX coordinators indicate in the survey that over 50% of the expenditures were for equipment, facilities, staff, and transportation for athletics and physical education programs.*
>
> *Expenditures for men's athletics and women's athletics in large higher education institutions are highly disparate. Men's athletic programs are well-established and have budgets which reflect the emphasis on revenue-producing sports. Women's athletics are only recently recognized and great amounts of funding are required to develop programs comparable to the men's.*

The majority of K-12 and higher education institutions plan additional expenditures to achieve Title IX compliance.

> *50% of the K-12 Title IX coordinators say in the survey that future Title IX expenditures are necessary to achieve compliance.*
>
> *62% of the higher education Title IX coordinators indicate in the survey that future Title IX expenditures are expected.*

Although athletics and physical education expenditures are important, members of the project's advisory panel note that revision of curricular materials at the K-12 level is a costly area. Curricular materials are not covered by Title IX and such costs were therefore not fully questioned in the Title IX survey. However, the advisory panel and those interviewed in the field consider revision of curricular materials important in eliminating sex discrimination in instruction and feel its costs must be recognized.

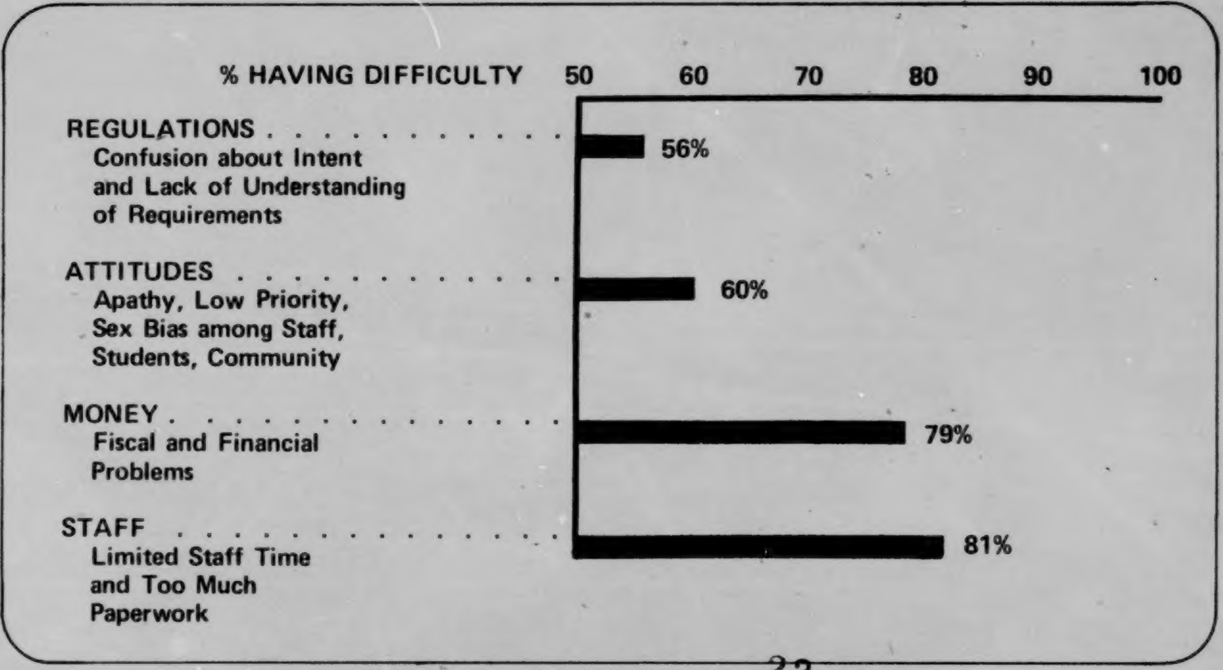
FINANCES . . .

FINDING No. 2: **While limited finances are a difficult obstacle to overcome, it does not preclude successful implementation of Title IX.**

It was observed during the site visits that when the administration of the education agency or institution is committed to providing equal educational opportunity, Title IX implementation occurred even when finances were limited. This suggests that limited finances are viewed as an obstacle, but not as an insurmountable one.

It is noted by members of the project's advisory panel that while Title IX funding needs were met during initial implementation, costs of continued progress, and even maintenance of effort, will become increasingly difficult to fund. The advisory panel members cite the difficult funding situation of all schools as a factor which could have a future impact on Title IX activities.

CURRENT OBSTACLES TO TITLE IX IMPLEMENTATION



IV

THE TITLE IX COORDINATOR AS A FACTOR INFLUENCING TITLE IX IMPLEMENTATION

FINDING No. 1: **Title IX coordinators fulfill three, sometimes conflicting, roles in Title IX implementation.**

One role of Title IX coordinators is to serve as an advocate for the elimination of sex bias.

> *During site visits, it was observed that Title IX coordinators in an advocacy role express commitment to the spirit of Title IX to provide equal educational opportunity.*
>
> *Advocates directly assist with program revisions and encourage philosophical agreement with Title IX objectives.*

A second role of Title IX coordinators is that of compliance officer.

> *During site visits, it was observed that Title IX coordinators serving as compliance officers are responsible for evaluating institutional compliance and ordering, or recommending, corrective actions.*
>
> *The tone of these compliance actions is one of formal enforcement, in contrast to the advocate's informal persuasion.*

A third role of Title IX coordinators is that of defender of the institution.

> *During site visits and discussions of the advisory panel, it was observed that the defender role requires the Title IX coordinator to minimize federal intervention and resist the pressures of special interest groups.*
>
> *The Title IX coordinator in a defender role works against full implementation of Title IX, whereas in the advocate and compliance officer roles, the coordinator assists implementation.*

Title IX coordinators generally act in agreement with the administration's perspective of Title IX.

> *During site visits, it was observed that when the top administrator of the educational institution is committed to Title IX objectives, the Title IX coordinator often serves as an advocate.*
>
> *When the top administrator is indifferent about Title IX, it was observed during site visits that the Title IX coordinator often functions primarily as a compliance officer.*
>
> *When the top administrator is openly negative toward Title IX activities, it was observed that the Title IX coordinator often serves as a defender of the educational institution.*

COORDINATOR . . .

FINDING No. 2:

Title IX coordinator responsibilities rarely constitute a full-time job. Many top-level administrators assume coordinator functions.

Survey responses indicate that Title IX coordinator functions are an additional assignment to already full-time positions. Many of the Title IX coordinators are high-level administrators.

97% of the Title IX coordinators surveyed combine Title IX responsibilities with other duties.

69% of the Title IX coordinators surveyed at the K-12 level are superintendents, business managers, or school principals.

57% of the higher education Title IX coordinators surveyed are presidents, assistants to the president, vice presidents, or business managers.

FINDING No. 3:

Most Title IX coordinators spend little or no time in anti-discrimination activities outside of school-related functions.

Survey responses indicate little relationship between serving as Title IX coordinator and active involvement outside of school in anti-discrimination activities.

86% of K-12 level coordinators indicate no involvement in anti-discrimination activities outside of their school-related functions. An additional 8% spend less than one hour per week in anti-discrimination activities.

57% of higher education Title IX coordinators say they are not involved in outside anti-discrimination efforts. An additional 2[illegible]% spent less than one hour per week in anti-discrimination activities.

COORDINATOR . . .

FINDING No. 4: **An active, committed Title IX coordinator is considered important to Title IX implementation.**

Survey responses indicate that most Title IX coordinators consider their active commitment important and that they see themselves as effective.

72% of K-12 level coordinators consider their active commitment an important factor in Title IX implementation.

90% of higher education coordinators consider their active commitment important.

71% of the Title IX coordinators say their recommendations were followed.

V

THE TITLE IX REGULATIONS AS A FACTOR INFLUENCING TITLE IX IMPLEMENTATION

FINDING No. 1:

Inability to understand the Title IX regulations is not a major obstacle to successful implementation.

Title IX coordinators contacted in the survey indicate that the regulations are comprehensible and that they had at least a moderate understanding of the regulations.

In the survey, Title IX coordinators rank limited finances, limited staff, and persistence of sex-biased attitudes as greater obstacles than a lack of understanding of the regulations.

Only a small percentage of the Title IX coordinators indicate little or no understanding of the Title IX requirements listed in the survey.

FINDING No. 2:

Requirements for self-evaluation, athletics, and grievance procedures are the least understood.

Of eight major requirements of the regulations, Title IX coordinators contacted in the survey are most unsure about self-evaluation requirements *(see the graph on previous page).*

One-third of the coordinators do not understand the requirements to conduct a self-evaluation.

Observations during site visits support the survey results. While it was found that the need to perform the evaluation was understood, local education staff had difficulty in structuring the evaluation. Self-evaluations reviewed during the site visits ranged from cursory reviews of educational activities to definitive studies accompanied by recommendations and deadlines for specific corrective action.

The difficulty in understanding athletic requirements is largely due to a lack of experience in equalizing the many aspects of athletic programs.

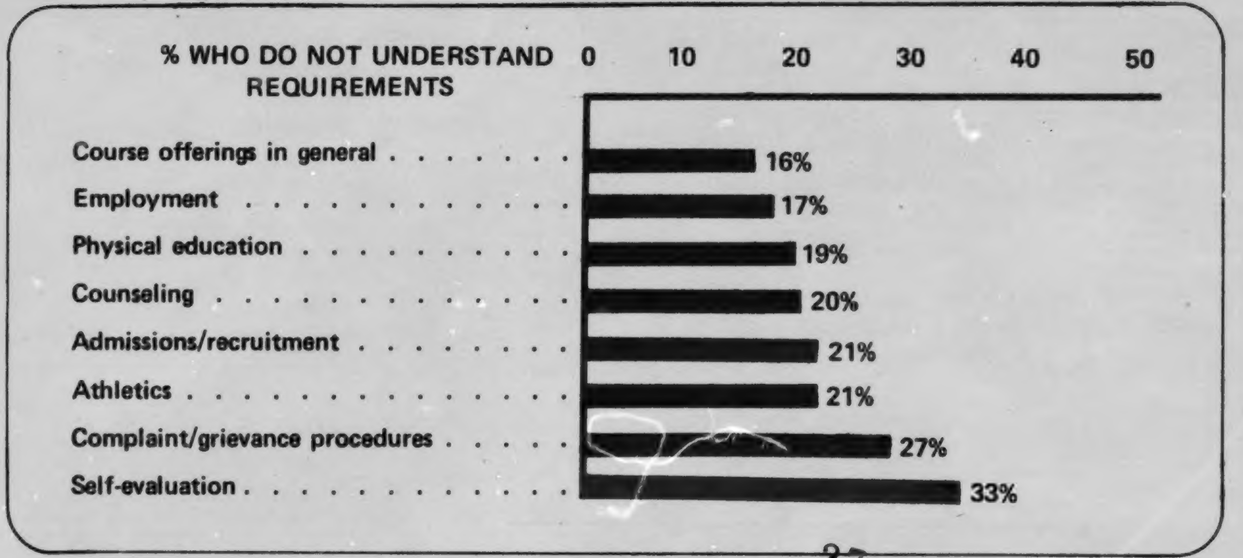
It was observed during site visits that Title IX implementation in the area of athletics often requires extensive program changes which staff and faculty lack the training and precedents to implement. Some staff, for example, recognize the need to equalize facilities usage, but have difficulty in structuring a schedule to accommodate all

> *athletic usage in limited facilities, while others have difficulty in structuring a completely new women's program. The problems are varied and the local staff often have no assistance in determining how to accomplish the extensive changes.*

A "lack of understanding" is often cited when respondents are unwilling to implement Title IX regulations.

> *It was observed during site visits and by the project's advisory panel that a "lack of understanding" may be given as the reason for Title IX inactivity when the actual reason is an unwillingness to take action.*
>
> *It was further observed that some educators are unwilling to implement Title IX because they do not agree with the objectives of the regulations.*
>
> *Others do not take Title IX action because they do not believe the federal government will enforce compliance.*
>
> *Still others are unwilling to take action because they feel that the changes they will have to make will be unacceptable to the community.*

TITLE IX COORDINATORS UNSURE ABOUT TITLE IX REQUIREMENTS



REGULATIONS . . .

FINDING No. 3:

The process used to formulate and enforce Title IX regulations has alienated supporters.

The regulation formulation process fostered dissension over the final regulations.

> *Analysis of the regulation formulation process reveals that the process did not provide adequate preparation of background information upon which to structure and defend the regulations, did not provide for resolution of conflicting perspectives on the extent of coverage of the regulations, did not provide interpretative information, and resulted in too lengthy a delay between passage of the law and issuance of the regulations.*
>
> *As a result of the inadequate formulation process, a sense of impermanence and an air of confusion surrounds the regulations, which reduces the credibility of the regulations.*

Enforcement of regulations is considered misdirected and "heavy-handed."

> *In the survey, some Title IX coordinators suggest that implementation could be assisted if the federal government assumed a less threatening role. When compliance audits are performed, individuals feel they are "presumed guilty" and, while they agree that audits are needed to prompt compliance, feel that the audits could be conducted in a more positive tone.*
>
> *The project's advisory panel members cite personal encounters with federal audit procedures which they consider detrimental to the effort to foster Title IX support. Some have received OCR questionnaires which they feel were excessive and costly to compile. Some doubt that the data requested was ever utilized by OCR. Panel members critized OCR staff for their unwillingness to assist in developing remedial measures following a compliance check.*
>
> *It is noted that technical assistance is not a responsibility of the DHEW Office for Civil Rights. However, as illustrated in the preceding point, local education personnel expect such assistance, as well as enforcement, from the federal government.*

Completion of paperwork is cited as a major obstacle to Title IX implementation.

> *83% of the Title IX coordinators find that paperwork is a continuing obstacle to Title IX implementation.*
>
> *The project's advisory panel notes that while there are few federal forms for Title IX, paperwork is generated from self-evaluation studies, reports of implementation progress, and compliance checks by OCR.*

(cont.)

The project's advisory panel also feels that the citation of excessive paperwork is mainly due to an association with federally-required paperwork in general and not solely to Title IX-related paperwork.

FINDING No. 4:

Most of the regulation requirements designed to insure compliance have been ineffectively used.

Several provisions of the regulations were included to prompt Title IX compliance. Of those, the requirements for self-evaluation, publication of a policy on non-discrimination, withdrawal of federal funds for non-compliance, establishment of grievance procedures, and designation of a Title IX coordinator have had limited effectiveness.

Site studies showed that self-evaluations in many instances are superficial reviews which result in few remedial program changes. Furthermore, future effectiveness of the self-evaluations is limited because there is no requirement to update the two-year old evaluations and because the requirement to maintain a file of corrective actions expires on July 29, 1979.

Title IX coordinators contacted in the survey consider the requirement to disseminate non-sex discrimination policy notices as the least important factor to the successful implementation of Title IX.

Advisory panel members indicate that the possibility of having federal funds terminated for non-compliance with Title IX is not regarded by local education agencies and institutions as a serious threat.

It was observed during the site visits that Title IX grievance procedures vary in quality. Often the procedures are believed by potential complainants to be a means for the local administration to bury complaints rather than take action on them.

A finding of the site studies is that the designation of a person to coordinate compliance with Title IX does not ensure that the coordinator will be effective. The ability of the coordinator to effect implementation depended upon the individual's commitment to achievement of Title IX, the support of administrators, faculty, community, and students, and other factors which varied with the individual and the agency or institution.

VI

TECHNICAL ASSISTANCE AS A FACTOR INFLUENCING TITLE IX IMPLEMENTATION

FINDING No. 1:

The majority of Title IX coordinators consider written and verbal forms of assistance to be equally helpful.

Generally, the Title IX coordinators questioned in the survey cite the following types of information as helpful.

Written information and technical workshops.

Information from other Title IX coordinators.

Verbal information from federal and state staff.

Awareness workshops.

The regulations.

FINDING No. 2:

One-quarter of the Title IX coordinators do not receive information from other coordinators, nor have awareness and technical workshops available.

Title IX coordinators were asked in the survey to indicate whether each of six types of external assistance were available.

28% did not have awareness workshops available,

26% were not contacted by other coordinators,

22% did not have technical workshops available,

19% did not have verbal information from state and federal staff,

16% did not have written information, and

3% did not have the Title IX regulations.

CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

In this chapter, conclusions are discussed and recommendations are presented which foster positive, voluntary compliance. These conclusions and recommendations are based upon the study findings presented in Chapter IV. To assist the reader in relating the study findings to the conclusions and recommendations, the study findings are summarized below. Because of limited participation by private schools and institutions, the findings, conclusions, and recommendations are only for Title IX implementation in public K-12 agencies and higher education institutions.

The Status of Title IX Implementation in Region X

Finding #1 - The majority of Title IX coordinators consider their agencies and institutions to be "in compliance" with Title IX.

Finding #2 - On-site studies of Title IX implementation indicate that full compliance has not been achieved by most agencies and institutions.

Attitudes as a Factor Influencing Title IX Implementation

Finding #1 - Lack of support for Title IX objectives is currently a major barrier to implementation.

Finding #2 - The active, committed support of administrative officials is critically important to implementing Title IX ("administrative officials" includes superintendents at the K-12 level and, in higher education, presidents and their primary assistants.)

Finding #3 - Implementation of Title IX is more successful when it is based upon the spirit of the law and not the letter of the law.

Finding #4 - Title IX implementation is most successful when it is supported systemwide by the administration, faculty, students, and community.

Finances as a Factor Influencing Title IX Implementation

Finding #1 - Limited finances are an obstacle to Title IX implementation.

Finding #2 - While limited finances are a difficult obstacle to overcome, they do not preclude successful implementation of Title IX.

The Title IX Coordinator as a Factor Influencing Title IX Implementation

Finding #1 - Title IX coordinators fulfill three, sometimes conflicting, roles in Title IX implementation.

Finding #2 - Title IX coordinator responsibilities rarely constitute a full-time job. Many top-level administrators assume coordinator functions.

Finding #3 - Most Title IX coordinators spend little or no time in anti-discrimination activities outside of school-related functions.

Finding #4 - An active, committed Title IX coordinator is considered important to Title IX implementation.

The Title IX Regulations as a Factor Influencing Title IX Implementation

Finding #1 - Inability to understand the Title IX regulations is not a major obstacle to successful implementation.

Finding #2 - Requirements for self-evaluation, athletics, and grievance procedures are the least understood.

Finding #3 - The process used to formulate and enforce Title IX regulations has alienated supporters.

Finding #4 - Most of the regulation requirements designed to insure compliance have been ineffectively used.

Technical Assistance as a Factor Influencing Title IX Implementation

Finding #1 - The majority of Title IX coordinators consider written and verbal forms of assistance to be equally helpful.

Finding #2 - One-quarter of the Title IX coordinators do not receive information from other coordinators, nor have awareness and technical workshops available.

CONCLUSIONS . . .

CONCLUSION No. 1:

In order to achieve full implementation of Title IX, it is necessary to obtain a greater philosophical commitment to the concept of equal educational opportunity.

Conclusion #1 is based upon study findings which indicate that Title IX implementation has not been fully achieved within Region X, and further, that the lack of a philosophical commitment to Title IX objectives is currently a major barrier to achieving additional progress. Notwithstanding the Title IX coordinators' survey opinions that the majority of their agencies or institutions are "in compliance", site visits clearly indicate that few schools within the region have actually achieved that status. Instead, there is a lack of commitment, as expressed in the low priority assigned to Title IX and the widespread incidence of sex-biased attitudes and apathy toward correcting discriminatory practices. Title IX lacks commitment from administrators, faculty, staff, students, and community members.

There are two philosophical approaches to implementing Title IX. One philosophy is that compliance should be achieved because it is required by law. Site visits indicate this approach generally results in a minimal interpretation of the regulations and "paper compliance" to the letter of the law.

A second philosophy is that compliance should be achieved because "equal educational opportunity is good education."[1] This approach is termed compliance with the spirit of the law and reflects a situation in which the regulations are positively interpreted as a means of achieving full implementation. In the most successful examples of implementation studied, this second philosophy is a major factor in achieving success. The influence of attitude on Title IX implementation is explained in the following discussion of support groups.

ADMINISTRATIVE SUPPORT

Administrative support is an important factor in the successful implementation of Title IX. Title IX coordinators acknowledge the importance of administrative support in the survey, and during the site visits it was observed that administrative support is always present in the most successful examples of Title IX implementation. The top administrator has line authority over staff and faculty and makes policy and budget decisions which control the actions which can be taken within the educational institution.

[1] *Local educators contacted during the study explained the need to provide equal educational opportunity as follows: One urban school superintendent commented, "Our biggest problem now is to retrain people to get them to see that Title IX is good education. We have people in our community who wonder why women can't be women and stand at the white picket fence with an apron on. I respond to that by saying that it is fine if women choose that role, but it is important for all youngsters to be free to choose their roles. The elimination of stereotyped roles from the education process is what is right for kids." A second school official from a small rural school declared, "Title IX ain't no great cultural shock to us because both men and women drive tractors and grain trucks and do other similar jobs so there ain't no reason to provide different educational opportunities based upon sex."*

In addition, site visits demonstrated that administrators set the tone for Title IX implementation within their institutions. It was observed that when administrators were committed to the spirit of the law, voluntary compliance resulted. In contrast, when administrators viewed Title IX as an example of federal intervention or a limited "women's right issue", they displayed indifference or were negative toward Title IX. Compliance in these instances was minimal.

Currently, administrators do not now consider Title IX compliance to be a high priority. Half of the Title IX coordinators contacted in the survey indicate that Title IX has only moderate to low priority in their institutions. Interviews with Title IX coordinators further reveal that this low priority is partially caused by the competition between Title IX and such other civil rights legislation as affirmative action and Section 504 of the Rehabilitation Act of 1973. A member of the project's advisory panel, who is a school district superintendent, states that of the three civil rights actions cited, the provisions for the handicapped (Section 504) are now the top priority concern of local education agencies.

However, for whatever reason, Title IX is not now an administrative priority, and needs to be if Title IX is to be successfully promoted. But administrators are not the only group important to Title IX implementation. As the survey indicates, in order for administrators to take the steps necessary to fully implement Title IX, it is important for them to be able to look to their faculty and general public for support for their actions. There are few educational officials who are willing to assume a leadership role in promoting Title IX in the face of pervasive apathy or open resistance from others. While administrative support is necessary to obtain the authorization of Title IX activities within the formal structure of the local education agency or institution, support from faculty, staff, students and the community is needed to encourage administrative action.

OTHER SUPPORT GROUPS

Support by faculty, students and the community is considered by Title IX coordinators to be low, but yet support from these groups is regarded as important to the successful implementation of Title IX. Indeed, Title IX coordinators contacted in the survey consider the lack of general support to be a major barrier to full implementation. Coordinators also cite persistence of sex-biased attitudes, apathy and misunderstanding of Title IX objectives as other factors which impede implementation.

The experience gained from several site visits illustrates the impact of apathy and resistance to Title IX implementation. For example, one local education agency initiated Title IX activities on the impetus of an executive order, but was halted in attempts for extensive implementation because a general lack of interest by faculty, staff, students and the community prevented accomplishing more than a cursory examination of school operations for sex bias.

Visits to higher education institutions revealed that, for the most part, faculty, student and community support is minimal and that consequently, Title IX implementation is also minimal. These visits indicated that paper compliance, based upon a minimal interpretation of the regulations, is typical in higher education. Some institutions have progressed beyond paper compliance in certain program areas, but Title IX implementation is not uniform across all programs within an institution, or across higher education as a whole.

Site visits indicated that one of the reasons why student and community support is low is because individuals are uninformed about the local education agency's or institution's specific obligations under Title IX. Notification materials required by the regulation are regarded by Title IX coordinators as providing little benefit in informing students and the community of the specific requirements which should be met.

However, interviews with several administrators and Title IX coordinators indicated that once the students and the general public are informed, they can be of great assistance as a force for aiding implementation. As recorded in Study #6 of local Title IX implementation (see Chapter VI), the superintendent benefited from the citizen participation he encouraged. He established a Title IX advisory committee which devoted many hours to understand the regulations and plan and recommend actions which would eliminate sex-bias in that education agency's activities.

The involvement of students can also be helpful in implementing Title IX. Several Title IX coordinators indicated during interviews that students, once they become aware of Title IX implications, actively support equal educational opportunity. They become in some instances the impetus for change by requesting new or revised program offerings to be implemented in the following school years.

HOW TO OBTAIN SUPPORT

The previous discussion describes the effects of a lack of philosophical commitment to Title IX, and whose support is necessary in order to achieve full implementation. This section describes the types of actions which should be taken to help engender the support necessary for full implementation.

On a national level, television, radio and other media should be used to improve public awareness of the need for equal educational opportunity. The materials presented should emphasize the point that equal educational opportunity is good education. Examples of women and men who were denied their choice of occupations because of sex-biased attitudes is one means of illustrating the point.

To solicit student support, materials should be developed to better inform students of their schools' specific obligations under Title IX. These materials should stress the students' right to equal educational opportunity and should be appropriate to the grade level of the students.

Within Region X, there are approximately 800 public local education agencies and 75 public institutions of higher education. The Office of Education, DHEW, has established a contractual relationship with the regional general assistance center (Northwest Center for Desegregation Assistance) to provide Title IX technical assistance and training to these agencies and institutions. It would be an appropriate task for the center to train a selected group of counselors, teachers and supportive Title IX coordinators within the region's local education agencies so they could, in turn, inform students at the K-12 level about their right to equal educational opportunity. In addition, a goal could be established for the center's cadre of providing one hour of instruction for each student in the region over a two-year period of time. Specially developed films and other materials could be used to supplement the instruction.

In order to reach students in higher education, general assistance center personnel could schedule meetings at the public two-and four-year institutions and make film materials and technical assistance available upon request.

As noted in the survey, it is also important to obtain the support of faculty members. Typically in Region X, local education agencies provide one or two-day inservice workshops for certificated personnel. Through contacts with state education associations and state and local education agencies, it should be possible to include a one-hour program on equal educational opportunity as a part of these inservice workshops. Again, a goal could be established for the general assistance center of providing all certificated staff with one hour of training over a two-year period. Again, films and other materials could be used to supplement the training.

One of the demographic characteristics of the region is the large number of small and, in some cases, remote local education agencies. Many of these small school districts participate in regional cooperative services. For example, the Educational Service District headquartered in Spokane, Washington serves approximately 60 local education agencies, many of which are small rural agencies. By utilizing this existing service network, it would be possible to provide films, other information and trained personnel to instruct students and provide inservice training to certificated personnel in a cost-effective manner.

The last and, according to the survey and site visit findings, the most important group whose support is needed to fully implement Title IX is the administrators of local education agencies and institutions of higher education.

There are several ways in which this support can be obtained. First, few administrators have assumed a leadership role in promoting Title IX in the face of apathy or resistance. Given, however, the proposed efforts toward increasing the public's general awareness of the need for equal educational opportunity; increased student knowledge of the agency's or institution's obligation under Title IX; and a more informed and supportive faculty, many administrators would provide the support, if not the leadership, necessary for full implemetation.[2]

However, since the support of the top administrator is critically important to effect the budget and policy changes necessary for full Title IX implementation, a special effort should be made to increase the awareness and understanding of administrators of why equal educational opportunity is good education. Typically, within the Region at the K-12 level, each state has the equivalent of a school directors association and a school administrators association. These local education agency associations meet at least annually. Again, through the existing contractual mechanism between the Office of Education and the regional general assistance center, a special program on Title IX could be prepared for the association meetings. Given the interests of the groups, the program should include a status report on current major legal rulings, current DHEW policy statements on Title IX, and presentations by school administrators who have successfully implemented Title IX. (The suggestion for presentations by educators themselves came from the field. During a site visit, a superintendent indicated he would be pleased to have the opportunity to speak to other administrators to clear up misconceptions about Title IX and also cite specific examples of why he believes it is good education. Several educators considered this an excellent means of soliciting support for Title IX.)

In addition to the proposed meeting program, each association could be requested to form a committee which would work with the regional general assistance center to develop more specific ways to foster the full implementation of Title IX.

With regard to higher education administrators, many of the presidents of the two-year institutions within the region meet on an annual basis. Again, through the general assistance center a request could be made to include a Title IX presentation at the meetings. The presentation should be similar to that proposed for the directors and administrators of local education agencies and again, the group could be requested to form a committee which would work with the general assistance center in determining ways to foster Title IX implementation. One of the special problems which such a committee should be asked to address is how to increase faculty awareness and support for equal educational opportunity. This problem is particularly difficult to solve given the high degree of autonomy of the faculty in institutions of higher education and their general tendency to not want to be involved in what they consider to be administrative matters.

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[2] *It is important to understand the distinction between the terms leadership and administrative support as they are used in this report. Leadership implies an active, personal commitment in the initiation or execution of all activity. Administrative support does not require leadership; it only requires a willingness to take positive action which may range from acquiescense to enthusiastic commitment. Site studies indicate that, while desirable, it is not necessary for the top administrative officials to provide the leadership for Title IX implementation. The studies reveal that the leadership for Title IX implementation can come from an athletic director, a school board member, a Title IX advisory committee, a Title IX coordinator, or others, regardless of the formal authority of the positions. The only observed similarity between the various individuals who acted as leaders for Title IX implementation was their personal, active commitment and interest in providing non-discriminatory education.*

In the four-year institutions, the entire top management level should be addressed. This group typically includes the top administrator, head of academic affairs, business manager, and others, depending upon the size of the institution. Through the general assistance center, a meeting should be arranged at each four-year institution at a time when all of the top administrators can be present. A presentation should be made similar to the one recommended for local education agency and two-year institution administrators. The administrators should be requested to appoint a Title IX advisory committee for each institution to assist the Title IX coordinator in formulating plans and recommendations for the implementation of Title IX. The committee would also assist the administrators in monitoring progress toward implementation. The advisory committee would be composed of faculty members, staff, students and could also have community representation.

In summary, if Title IX is to be fully implemented, the lack of philosophical commitment to it, which is now a major barrier, will have to be replaced with support from the general public, administrators, staff, faculty and students. This support can be obtained through increasing the awareness and understanding that equal educational opportunity is good education and by providing for the increased participation of educational administrators in designing plans and processes for achieving full compliance.

SUMMARY RECOMMENDATION No. 1: A multifaceted program is needed to increase the general awareness of students, faculty, and the public and promote widespread support of Title IX objectives.

In addition, the program should particularly solicit local administrative support of Title IX implementation. It should be designed to promote administrative recognition of the need to provide equal educational opportunity and enable local officials to participate in the planning of the actions required to fulfill that need.

CONCLUSIONS . . .

CONCLUSION No. 2:

Federal financial support to local education agencies and higher education institutions would ease the burden of Title IX implementation costs. In addition, such financial support would probably hasten implementation.

Survey findings clearly indicate that the lack of adequate finances is a major barrier to Title IX implementation. Both Title IX coordinators and administrators ranked finances as one of the most difficult obstacles to overcome to achieve Title IX compliance. The majority of local education agencies and institutions of higher education, 68% and 77% respectively, have made expenditures to come into compliance with Title IX. In addition, 50% of local education agency and 60% of higher education Title IX coordinators indicated that additional expenditures are needed.

The data indicates that, on the one hand, local education agencies and higher education institutions consider limited finances a difficult obstacle to overcome, yet, on the other hand, they have made expenditures in many Title IX areas in the past and feel additional expenditures must be made. In discussions with the project's advisory panel, it was observed that the data could be interpreted as a contradiction. That is, the citation of a lack of funding and the fact that expenditures were made suggests that the money can be found when it is needed, that the financial barrier is not insurmountable, and that the lack of finances might be used in some instances as an excuse to delay Title IX implementation. On the other hand, the advisory panel commented that the data could also be taken at face value. That is, finances could be a serious problem for those with limited budgets and Title IX expenditures have been made only by sacrifice of other needs.

Regardless of the reasons behind citation of limited funding as an obstacle, federal financial assistance would still speed Title IX implementation by: (1) voiding the basis of the complaint of limited finances by providing funds, and (2) assisting those who in reality face difficult financial limitations. As a member of the project's advisory panel explained, if even a modest amount of federal funds were provided, it would generate increased interest in Title IX implementation. Stated simply, if money is available, people are inspired to examine their needs and determine how the money can be used. When the funding is received, the necessary Title IX action takes place. This is admittedly a simplistic description of the effects of supplemental funding. But the point still stands that funding assistance is needed and providing funds is a means of encouraging initiative in achieving Title IX compliance.

However, the determination of who should receive funds will be difficult. The majority of the Title IX expenditures made in the past and planned for the future are for facilities, equipment, staff, and other needs of physical education and athletic programs. With the present growth and program needs of athletics and physical education, financial assistance to these two programs appears logical. However, it will be difficult to develop a universal formula for providing equitable support to local agencies and institutions. The difficulty lies in determining a formula which recognizes those who have made a sincere effort to comply and made difficult expenditures, but yet does not reward those who have deliberately postponed program expenditures. Otherwise, if funding is determined solely on the basis of amount of funding needed, agencies which have met the costs of compliance would feel penalized because the agencies who postponed Title IX implementation would receive the most funding. To determine the need of an agency or institution for supplemental funds, DHEW would have to consider such variables as importance and benefits of the program to the agency or institution and to the community, degree of effort already made to comply with Title IX, and factors of the agency's or institution's budget which necessitated the request of federal support.

But direct support of Title IX implementation costs is only one alternative. It should also be considered that the federal government now provides substantial amounts of financial support of many kinds to local units of government. Modification of the criteria for funding now unrelated to Title IX should be considered. For instance, some of the funds now provided are used to pay for the construction of community recreational facilities. In considering requests for federal support of the construction, the federal government could encourage local education agencies to participate with local government in the acquisition of such recreational facilities as practice fields, playgrounds, athletic equipment and similar items which could be jointly used. The award of funds could be based on consideration of modifications to gymnasiums to provide increased locker space, additional shower facilities and such other modifications as are necessary to provide equal facilities for male and female students. Some form of a priority weighting for Title IX projects could be established to help ensure their consideration for funding. An additional benefit which could result from such a funding program is that all of the recreational facilities acquired through the program would be operated on a nondiscriminatory basis.

A third alternative is the establishment by the federal government of a National Physical Fitness Program. Given the strong nationwide interest in jogging, bicycling, tennis, swimming and other forms of physical activity, local education agencies and governments are being increasingly pressured to provide additional recreational facilities. The federal government could establish a new grant-in-aid program or combine portions of existing grant-in-aid programs to provide a source of funding for the National Physical Fitness Program. The new program could include such requirements as the provisions of Title VI and Title IX as conditions for receipt of a grant. A further requirement could include joint planning and usage by the community and the local education agency.

Thus, three alternative approaches have been suggested to alleviate Title IX expenditures for physical education and athletic programs. However, while physical education and athletic programs are areas of major expenditure, there are other program areas where Title IX implementation is a financial burden. One of these areas is curricular materials, which includes textbooks, library books and film materials. According to one advisory panel member who is the superintendent of a local education agency, "If we are to treat Title IX seriously and do the job properly, we need to change social studies and math textbooks, reference materials and the films in our libraries to eliminate the sex bias coming from these sources. These items are costly and we can't do the job alone. While Title IX does not cover curricula because of the interpretation of curricula revision as a local perogative, the federal government has at least a moral obligation to help us with this part of the financial burden."

A final area where Title IX creates a need for financial assistance is staff development and inservice training. Many of the smaller local education agencies do not have the funds necessary to hire substitute personnel to provide release time for faculty and staff to attend Title IX seminars and workshops. In the discussion of Conclusion #1, a goal was recommended to provide all certificated staff within the region with one hour of training in equal educational opportunity over a two-year period. If this goal were established, federal financial support would be necessary in order to get the staff to the training or to bring the training to the staff.

In summary, most local education agencies and institutions of higher education find Title IX implementation a financial burden. Currently, the greatest funding difficulty is in the program areas of physical education and athletics. Notwithstanding the current expenditure emphasis on physical education and athletics, local education agencies and institutions also incur expenses when they change textbooks, reference materials and films to eliminate existing sources of sex-bias. Staff development and inservice training programs are yet another area of Title IX activities which are too costly for many local education agencies to fully provide.

SUMMARY RECOMMENDATION No. 2: Some form of federal financial support to local education agencies and institutions should be provided to ease the financial burden resulting from implementation of Title IX. Recommended areas to support are athletics and physical education, curricula, and staff development.

CONCLUSIONS . . .

CONCLUSION No. 3:

Several requirements of the Title IX regulations were designed to prompt local level compliance. All five of the provisions which were examined in this study were inadequately designed or are ineffectively used. However, one of the five provisions, for assurances of compliance, can be restructured for effective use in the future.

The regulations contain several requirements which serve as basic steps the agency or institution must take to achieve compliance to Title IX. The study identified five of those provisions and assessed them for their effects on local level implementation: institutional self-evaluation, establishment of a grievance procedure, issuance of non-sex discrimination notices, designation of a Title IX coordinator, and preparation of assurances of nondiscrimination. The study of the design and effectiveness of these provisions consisted of determining how they were actually enacted in the field and whether the actions required by the provisions assisted local Title IX implementation. According to present use of the provisions, all five proved to be less than effective in uniformly prompting compliance.

For example, it was found that self-evaluations did not consistently facilitate Title IX implementation because they were often superficial reviews of educational operations rather than comprehensive assessments of sex discrimination. The evaluations were required as a basic first step in determining the need for corrective action to eliminate sex discrimination and, further, could be used as a management tool to effect change and measure progress. However, many of the evaluations reviewed during the study's site visits lacked depth and purpose and were often completed only because they were required and not because their purpose was understood or valued. In addition, respondents to the survey identified the performance of an institution's self-evaluation as one of the least understood requirements of the Title IX regulations. While local educators were aware that they were required to perform the evaluations, many of them at the time of the issuance of the regulations did not know the purpose of the evaluations nor how to structure them for effective use in guiding Title IX implementation. Guidelines for effective self-evaluations were not available until some time after the passage of Title IX and local educators' personal awareness of sex discrimination in the early years of Title IX was often too limited to enable them to effectively structure their own evaluations. As a result, many of the agencies and institutions made a minimal review of their educational operations, achieving only paper compliance to the requirement. Furthermore, under the present regulations, the self-evaluations will not have any future impact on Title IX implementation; no files will have to be maintained after July 21, 1979 on the evaluation and the corrective steps which resulted from it. Thus, while the idea of requiring institutional self-evaluations was good, the enactment of the requirement resulted in documentation which is of questionable value. Furthermore, the need to maintain records of the documentation will soon expire, along with the general provision requiring the institutional self-evaluation.

The next two provisions of the regulations, the establishment of a grievance procedure and issuance of non-sex discrimination notices, were also not fully enacted in the field. The intent of the grievance procedure which each agency and institution is required to establish was to provide both the school and the complainant with an opportunity to resolve problems at the local level without federal intervention. However, local educators once again lacked guidelines for development of the grievance procedure. Many fulfilled the requirement by expanding existing personnel complaint procedures to cover Title IX grievances, while others struggled to establish new procedures. The resulting grievance procedures are seldom used. Because the complaints would be made public and dealt with internally, potential complainants fear retaliation from the school administration, staff, or faculty, and feel the in-house grievance procedure could be used as a means to indefinitely postpone any kind of decision.

The issuance of notices on non-sex discrimination was another provision which was studied. The purpose of the requirement is to inform educational personnel and the public of the agency's or institution's intent to eliminate sex discrimination from its practices. Informing people of the need for corrective action could have developed into a comprehensive effort to heighten awareness of what constitutes sex discrimination and what can be done to eliminate it. However, the requirement has most often been met through the publication of a brief policy statement on sex discrimination by the agency or institution. Once again, the details of how to enact the notification were not provided to local educators. As a result, Title IX coordinators indicate in the survey that the non-sex discrimination notices were of little assistance to successful Title IX implementation.

The requirement to designate a Title IX coordinator was another provision which is limited in its effectiveness. The study revealed that Title IX responsibilities are assigned to a variety of staff positions and the fact that a Title IX coordinator was appointed did not ensure the effectiveness of that individual's actions. Instead, the ability of the Title IX coordinator to effect implementation depends upon the individual's commitment to achievement of Title IX, the support of the administrators, faculty, community, and students, and other factors which vary with the individual and the institution. These factors cannot be directly controlled through federal regulation and thus the effectiveness of the requirement for a Title IX coordinator varies greatly from institution to institution.

The remaining requirement which was studied for its effect on local implementation was the filing of assurances of compliance. Paragraph 86.4 of the Title IX regulations requires the applicant to submit an assurance of compliance to Title IX each time the applicant applies for federal financial assistance. The assurance of compliance must state the commitment on the part of the applicant to take voluntary remedial action to eliminate existing bias or the effects of prior sex discrimination. It was found that in its present form, the assurances are not effective in promoting compliance. However, unlike the other four requirements studied, the assurances can be restructured for greater effectiveness in the future.

The effectiveness of the requirement for an assurance is highly dependent upon the content of the assurance. An assurance which is a simple written declaration and which requires no supportive information has little value in determining whether compliance is assured or whether voluntary remedial action is necessary. Unfortunately, the assurances are now submitted in the simplistic and limited form of a brief declaration. However, if the present requirement to submit an assurance for each application of federal assistance was replaced by a requirement to submit a more effective Assurance of Compliance Report once every year or every two years, two major problems in prompting local compliance would be resolved.

First, the Assurance of Compliance Report would resolve the current problem of requiring assurances of compliance when documentation is not adequate to support the assurances. As the study revealed, local education agencies and higher education institutions had difficulty in conducting the institutional self-evaluation which is the primary documentation of effort. In many cases, the review and resulting changes were superficial. Furthermore, the requirement to file the self-evaluation and the record of modifications will soon expire. Thus, the current situation is that most local education agencies and institutions are required to provide assurances of compliance with little or no information upon which to base the assurance. In addition, when the Office for Civil Rights performs a compliance review of the agency or institution, the self-evaluations and the record of modifications often provide little information because they are inadequate, and, further, after 1979, not even those limited records will be on file.

Second, the Assurance of Compliance Report would resolve the problem of inadequate records available for compliance monitoring by the Office for Civil Rights. Currently, in order to deal with the problem of inadequate records for compliance review purposes, the Office for Civil Rights requests substantial amounts of information additional to that contained in the agency's or institution's existing self-evaluation and modification files. Agencies and institutions, based upon their review of the Title IX regulations, often assume that the only information which they are required to provide to the Office for Civil Rights is a description of the modifications made as a result of the self-evaluation. When agencies and institutions are confronted with unanticipated requests for large amounts of additional information, they become angry and frustrated by what they perceive to be the excessive paperwork demands of the federal government.

There are several features which should be incorporated into the design of the Report. First, it should contain only information which indicates obvious compliance or non-compliance to the major requirements of the regulations. The emphasis on determination of the general status of compliance will achieve the second necessary design feature of brevity. The Report should be kept to a minimum length so that the paperwork burden on both local educators and DHEW staff is not increased.

Third, the Report should provide the recipient with an opportunity to explain the situation illustrated by the Report's information. If the information implied a condition of non-compliance, the recipient should have an opportunity to explain: (1) why the situation is not a result of sex discrimination, or (2) what remedial steps are being taken to eliminate the discrimination.

The proposed Assurance of Compliance Report thus has several advantages:

One of the most fundamental precepts in management is that managers must know what is expected of them in terms of standards of performance and whether or not they are meeting those standards. The proposed Assurance of Compliance Report would systematically provide managers with the opportunity to perform a self-evaluation of the progress they are achieving towards meeting the performance standards.

The proposed Assurance of Compliance Report would provide the Office for Civil Rights with relevant information needed to perform compliance monitoring.

The adoption of a standarized Assurance of Compliance Report could reduce the amount of paperwork currently resulting from the preparation of an assurance for each grant application and give the Office for Civil Rights a more current and relevant basis for selecting agencies and institutions for compliance reviews.

The Assurance of Compliance Reports could be reviewed to identify areas of Title IX compliance which are the most difficult for local educators to achieve. The information should be relayed from the Office for Civil Rights to the Office of Education so that the Office of Education could focus its technical assistance efforts on the areas of greatest need. (If the Office of Education is made a separate federal agency, as is being considered by C. Congress, the need to strengthen the exchange of information between OCR and OE could become even more acute.)

Finally, the proposed Assurance of Compliance Report would encourage meaningful self-evaluation and positive, local remedial action.

Following is a sample Assurance of Compliance Report.[3]

ASSURANCE OF COMPLIANCE REPORT

I. Assurance of Compliance (A written statement signed by the agency's or institution's head administrator attesting to the accuracy of the information contained in the report and assurance of compliance).

II. Supporting Data Statement

A. Employment

1. *List the number of employees by sex, and average salary for each major job classification. (Forms prepared for E.O. 11246 may be substituted.)*
2. *Provide a copy of position descriptions and salaries and descriptions of the qualifications and selection criteria for each job position.*
3. *Provide a copy of published salary schedules for both certificated (faculty) and noncertificated positions.*
4. *Provide a copy of all policies relating to granting of leaves of absence, including those for temporary disabilities, extended medical leave, and for pregnancy and related conditions.*
5. *Provide a copy or descriptions of any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan which the school provides.*
6. *Provide a description of any administrative internships or training programs operated by the school or in which school personnel participate, including:*

    a. *Name (or other identifier) and sex of individuals participating in such programs for the past three years;*
    b. *Means used to inform potential applicants or enrollees of the program;*
    c. *Criteria for selecting participants.*

B. Admissions

1. *Listing of all admissions by sex for past year. If special admission programs are used, list admissions by sex for these programs separately.*
2. *Copy of all tests or other criterion used in admissions decisions.*

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[3] *Complying With Title IX, Implementing Institutional Self-Evaluation, prepared by Martha Matthews and Shirley McCune for the DHEW Office of Education, is an excellent handbook on self-evaluation. It could be used to develop an alternate Assurance of Compliance Report.*

C. Course Offerings

1. As appropriate, list the annual number of students by sex enrolled in the following categories of courses or programs:

   a. business and office occupations;
   b. industrial and trade;
   c. home economics;
   d. health occupations;
   e. science and engineering.

   If the number of individuals of one sex enrolled in any of the above categories is substantially disproportionate (80% or more), the local education agency or institution should indicate in Section III, why such disproportion is not the result of sex discrimination, or the steps taken to remedy the situation.

D. Student Services

1. Provide a copy of student handbooks and other descriptive information provided students to aid them in selecting courses and programs.
2. Provide a list of student placements by sex in work-study or cooperative education programs for the current year including:

   a. title of course;
   b. specific work assignment;
   c. salary or hourly wage and number of hours per week employed.

E. Athletics

1. Intramural Athletics

   a. List by sport the number of teams engaged in intramural competition, including the number of:

      (1) all male teams and number of members on a team;
      (2) all female teams and number of members on a team;
      (3) mixed teams (how many males and females on each team).

   b. List the expenditures for boys' intramural athletics, girls' intramural athletics, and for mixed teams.
   c. List the monthly and total salary for each coach.

2. Interscholastic (Intercollegiate) Athletics

   a. List by sport for each interscholastic (intercollegiate) team sponsored by school: the number of males and females on each team, the sexes of the coaches of each team, the number of competitive events each team has scheduled, and the budget for each team.
   b. List athletic scholarships by sex. Describe procedure for ensuring proportionality by sex.

F. Housing

   1. Provide a listing for each housing unit of the number of students by sex, and the amount charged for each housing unit.

G. Marital or Parental Status

   1. Provide a brief description of any classes or programs offered to students as a result of marital or parental status and give the number of students by sex participating in the program.

H. Honors and Awards

   1. List prizes, awards, or scholarships awarded to students in the past year, including the name and sex of each recipient and a description of the extent to which the school participated in the nomination and selection process.

I. Codes of Conduct

   1. Provide a copy of student handbooks or other statements setting forth any rules or regulations governing student behavior or appearance.

III. Applicant Response To Supporting Data Statement

   1. If the information tends to indicate a condition of non-compliance, the applicant may explain why the situation is not a result of discrimination.
   2. For the appropriate areas, list the voluntary, remedial steps which the applicant plans to take to achieve compliance.

In summary, the five requirements of the regulations which were examined for effects on local implementation are not being effectively used. However, by restructuring the assurances of compliance, Title IX implementation would be greatly assisted. The use of the proposed Assurance of Compliance Report would assist agency and institutional administrators in evaluating their schools for sex discrimination and determining necessary corrective action. The report would also provide current records of efforts which the Office for Civil Rights could use as a basis for compliance monitoring and for advising the Office of Education of the areas of implementation with which local agencies and institutions need technical assistance.

SUMMARY RECOMMENDATION No. 3: A new Assurance of Compliance Report should be developed and implemented. The report would have a one or two-year life. It would be the basis for assuring agency compliance as a condition for the receipt of federal funds and would serve as the basis for compliance reviews by the DHEW Office for Civil Rights.

CONCLUSIONS . . .

CONCLUSION No. 4:

Additional technical assistance, both written and verbal, would aid implementation of Title IX in local education agencies and institutions of higher education.

To determine the need for technical assistance and the most beneficial forms of assistance, local educators were questioned in the written survey and during the site visits on their experiences with technical assistance in the past and their needs in the future. For example, the survey included questions to determine: (1) the helpfulness of several different kinds of written and verbal information that had been received by Title IX coordinators, and (2) what types of information were not available to the Title IX coordinators. The Title IX coordinators contacted in the survey were asked to assess six types of assistance:

> *Verbal information obtained from state or federal agency staff and government-sponsored assistance centers,*
>
> *Written information or technical assistance materials,*
>
> *The official Title IX regulations,*
>
> *Information obtained from other Title IX coordinators,*
>
> *Information obtained from technical workshops, and*
>
> *Information obtained from awareness workshops or training.*

When asked to rate the helpfulness of the information received from the six different sources, most of the Title IX coordinators considered the information they received from every source as very helpful. However, information on Title IX implementation did not reach all of the coordinators surveyed. Nearly 25% indicated that they did not receive information from other Title IX coordinators, awareness workshops, technical workshops, or verbally from state and federal staff. The Title IX regulations and written information or technical assistance materials were widely available. Title IX coordinators therefore indicated that almost any form of technical assistance was helpful, but that information from some sources was more available than that from other sources.

A determination of the types of assistance needed in the future was made from survey responses and site interviews. In the survey, Title IX coordinators were asked to suggest actions which would assist future Title IX efforts. 11% of the voluntary write-ins were suggestions for additional technical assistance; nearly one-half of those technical assistance suggestions were for workshops and the other half were for clarification of the regulations. The survey responses on the types of technical assistance needed in the future were supplemented with the perspectives of educators interviewed in the field. Those interviewed agreed with the survey's indication of the need for workshops and clarification of the regulations and, furthermore, identified two additional needs: the need to share ideas on achieving Title IX implementation, such as through a newsletter presenting examples of Title IX implementation in schools and institutions; and the need of rural local education agencies for personal assistance in resolving the unique problems of geographically isolated schools which are limited in resources.

All of those interviewed agreed that additional technical assistance was needed and that it was an appropriate form of aid to be provided by DHEW. After review of the survey responses and discussion with the project's advisory panel and state, federal, and local educators, it was concluded that the following four forms of future technical assistance would be the most helpful to local education agencies and institutions of higher education:

A Title IX policies compendium,

A quarterly Title IX newsletter,

Personal assistance to rural local education agencies, and

Technical assistance and awareness workshops.

TITLE IX POLICIES COMPENDIUM

According to the study findings, local educators need clarification of the Title IX regulations. They want explanation of how DHEW interprets the regulations in practical application. For example, in the survey, Title IX coordinators said that they need to know whether Title IX requires that all classes be co-educational, what the definition of "comparable" athletic programs is, how to determine equity in scholarships, how to conduct self-evaluations and develop grievance procedures, and how to interpret the impact of any Title IX litigation on Title IX implementation. Some of these questions would be answered by providing written assistance, such as sample guidelines for self-evaluations and grievance procedures. But other questions would be more appropriately addressed in policy statements. It is the Contractor's understanding that a policies compendium was begun several years ago and, based on the findings of this study on the need for policies clarification, it is recommended that the compendium be completed. The survey responses just given are only samples of the questions educators have on application of the regulations. The Contractor is aware that many of the questions in the sample have already been answered in policy statements. But discussions with local educators show that: (1) educators are not aware of the policy statements already issued, and (2) that additional clarification of the regulations is necessary. Local educators and regional DHEW staff would certainly be able to suggest areas of the regulations for which formal interpretation is needed. Recommendation #6 of this study is for the establishment of a regional Title IX advisory committee and it is suggested that it would be an appropriate responsibility of the advisory committee to assist in determining the content of a policies compendium.

TITLE IX NEWSLETTER

A Title IX newsletter, issued quarterly by DHEW, would serve three purposes: (1) it would announce new Title IX policy issuances by DHEW, (2) it would provide current reports on Title IX litigation, and (3) it would provide examples of Title IX implementation to assist educators with local Title IX activities.

It is anticipated that additional policies will be issued after publication of the Title IX policies compendium. It is suggested that a newsletter, distributed regularly to local educators and regional DHEW staff, would be a means of publicizing new policies and also of explaining existing policies. A comment often made by local educators interviewed during the study is that they do not know what DHEW interpretations of the Title IX regulations exist. The policies compendium would serve as the official source of Title IX policies, and the Title IX newsletter would serve as the official publication to explain the policies and announce new additions to the compendium.

Another comment often made by local educators is that they do not know what kind of litigation is pending on Title IX, the status of the litigation, nor the effects of such litigation on Title IX implementation. Those interviewed thought they heard that various litigation was pending and they reasoned that they would rather delay their Title IX activities until they knew of the effects of the litigation. Whether this is a valid reason for delaying Title IX implementation is not the issue. The problem which needs to be addressed is that local educators are not receiving the information they seek on factors affecting Title IX and the lack is impeding achievement of Title IX compliance. It is therefore suggested that DHEW use a regularly distributed newsletter as a means of providing brief reports on Title IX litigation.

A third important use of the newsletter is to provide examples of local implementation of Title IX. Educators interviewed during the study spoke of a need for examples of practical application as a means of translating Title IX requirements into actual operations. An example is the newsletter, In The Running[4], which reports national developments in athletic opportunities, examples of Title IX implementation, and explanation of Title IX coverage of athletics. However, this newsletter covers only the area of athletics and it is recommended that examples should be provided of Title IX activities in all program and operational areas covered by the regulations.

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[4] *The quarterly newsletter is published by SPRINT of the Women's Equity Action League Educational and Legal Defense Fund, funded by a grant from the Women's Program Staff of DHEW: 805-15th Street NW, Washington, D.C. 20005.*

ASSISTANCE TO RURAL AGENCIES

Temporary personal assistance to evaluate Title IX needs and initiate actions is considered by rural educators to be one of their greatest technical assistance needs. This need for personal assistance was frequently voiced by those in rural school districts, who pointed out that they face unique problems with Title IX implementation not shared by larger school districts. Many rural districts are isolated from the three primary sources of technical assistance (DHEW, general assistance centers, and state agencies) which are located in the larger cities. Furthermore, the Title IX implementation problems of rural districts are different from those of the larger districts because they have fewer staff and more limited financial resources to draw upon. In addition, rural districts are often geographically isolated which reduces the opportunity for staff to travel long distances to attend informational workshops held in the more populated areas. In summary, the rural K-12 local agencies need individualized assistance, delivered to their often isolated sites.

The personal assistance would consist of an individual(s), knowledgeable of Title IX and rural needs, who would temporarily assist rural K-12 agencies in furthering their Title IX efforts.

A means of providing the needed assistance would be through the DHEW-funded general assistance center and the existing state cooperative educational service districts. The general assistance center is now contracted by DHEW to provide technical assistance but it is suggested that the center may wish to arrange provision of the rural assistance through the cooperative service offices which provide centralized film libraries, personnel, purchasing, and other services to public K-12 agencies. These offices are familiar with education needs of their member agencies and are already recognized by the agencies as a local source of assistance. It is suggested that the general assistance center oversee the aid to rural districts, but, in order to insure the individualized attention required, that the actual delivery of the assistance be performed through the cooperative service offices.

TECHNICAL AND AWARENESS WORKSHOPS

Another form of technical assistance which needs to be provided by DHEW in the future is workshops. The need for technical and awareness sessions was discussed at length under Conclusion and Recommendation #1. It is repeated that the support of administrators and staff, faculty, and students should be solicited to benefit Title IX implementation, and that the awareness and technical sessions described earlier are a means of encouraging this support.

SUMMARY RECOMMENDATION No. 4: DHEW should provide technical assistance to local education agencies and institutions of higher education. Future assistance should include a Title IX policies compendium, a quarterly Title IX newsletter, personal assistance to rural local education agencies, and technical and awareness workshops for selected groups.

CONCLUSIONS . . .

CONCLUSION No. 5:

The regulation formulation process used for Title IX regulations should be improved for use in future development of other similar regulatory actions.

Despite the fact that almost 10,000 comments were received by DHEW prior to issuing the final regulations, interpretations and litigation over the meaning and intent of the regulations continues. The result is a sense of impermanence surrounding the regulations which in turn fosters dissent from potential supporters and encourages non-compliance from those who are unwilling to implement the regulations.

Most of the recommendations of this report are designed to help resolve the existing controversy which has hindered Title IX implementation. The objective of this recommendation is to suggest ways in which the regulation formulation process could be improved to reduce the potential for controversy over future similar regulations. Following is a model presented for consideration. The model is designed for legislation prompting social change. It is followed by a discussion which compares the model regulation formulation process with the process used for Title IX to illustrate how the model process would have prevented a number of the problems now affecting Title IX implementation.

Model Regulation Formulation Process

Step I

The regulatory process is initiated when the Department, the Administration, or Congress begins serious consideration of a law which will have an effect on society in general or some segment of it. "Serious consideration" is evidenced when the Administration requests legislation or when Congressional hearings on the subject are scheduled.

During Step I, DHEW staff should be assigned the responsibility for identifying and obtaining the views of a broad cross-section of people within and outside of government who are knowledgeable about the subject.

In addition, analyses should be prepared which indicate the major substantive issues as well as the difficulties which could be encountered in administering the act.

Also, during this step, a record is compiled of the testimony provided during committee hearings.

Step II

Initiation of the drafting of the legislation signals the second step of the model. At this point, DHEW staff provide information on what general features the legislation and regulations might contain to facilitate achievement of the objective of the act. If, at this point, a decision is under consideration to model the proposed piece of legislation after an existing act, staff should be required to carefully assess whether the model act and its implementing regulations were effective in achieving the statutory and regulatory objectives.

During this period, discussions should be held with the knowledgeable people identified earlier. The purpose of the discussions is to clarify substantive issues and attempt to reconcile differences. A record of Congressional intent should be begun.

Step III

Enactment of the legislation initiates the third step of the model. At this juncture, the DHEW regulation formulation staff should have available:

The legislation.

Statements of Congressional intent.

Testimony from Congressional hearings.

A record of the substantial issues and the extent to which they have been reconciled.

An analysis of the general form which the regulations should take to be consistent with the act and facilitate achieving its objective.

Based upon this information, a draft of the regulations should be prepared. Additional meetings between staff and interested parties should be conducted to reconcile differences, and a joint task force composed of opposing interests could be appointed to draft suggested solutions for review by the staff prior to the final drafting of the regulations. A record should be maintained of the effort to reconcile differences between opposing groups. This record should include copies of letters, memoranda, minutes of meetings and the time, date and general topics of telephone conversations.

Step IV

Step IV is initiated upon issuance of the draft regulations and their publication in the Federal Register. At this point, the regional offices should be fully briefed on the draft regulations and they, in turn, should conduct regional meetings to obtain comment on the draft regulations.

In the event that interest groups indicate differing positions on the regulations, a national task force composed of representatives from the different groups and other knowledgeable people should be established to help reconcile differences.

During Step IV, work should be initiated on developing technical assistance materials and the methods which will be used to inform interested parties of the content of the final regulations.

Step V

Step V begins when the final regulations are drafted. The final regulations should be based on administrative policy, Congressional intent and reflect the information and comments received from the regional offices and any of the recommendations from the national task force of Step IV. If litigation over the regulations is anticipated, care should be taken to develop a defensible legal basis for the regulation.

Work should be completed on the technical assistance materials and delivery system.

Step VI

In Step VI, upon issuance of the final regulations, interested parties at the national level should be fully advised of the content of the regulations. Similar regional meetings should be held to inform local constituents of the regulations.

If policy interpretations or other information is necessary to help explain the regulations, it should be issued in full at the time the final regulations are released.

Step VII

The immediate notification of interested groups in Step VI is followed by informational workshops to ensure that field offices and all affected groups fully understand what is expected of them and what penalties will be invoked for noncompliance.

Step VIII

Enforce the regulations.

COMPARISON OF MODEL WITH PAST PROCESS

While it is recognized that there were extenuating circumstances which caused most of the problems with the formulation of the Title IX regulations, it is felt that any shortcomings of the formulation process used need to be discussed to assist those in the future who are assigned responsibilities for drafting regulations for similar statutes. The actual formulation process is therefore compared in the following discussion to the proposed model process to provide constructive suggestions for the future.

In the model process, records are developed during the preliminary steps which assist the drafting of regulations after passage of the act. In contrast, formulation of the Title IX regulations did not begin until after passage of the act, with the resulting situation that while regulations were needed immediately, there was no background information compiled to speed their drafting. It is felt that the lack of preparation for the drafting was a partial cause of the long delay in issuance of the regulations. In addition, the actual process did not provide for careful analysis of the effectiveness of similar legislation, such as Title VI, which could have provided additional guidance in structuring the regulations.

The model process calls for the appointment of a joint task force in Step III and a national task force in Step IV to reconcile differences over the content of the regulations. It is difficult to determine whether such appointments would have reduced the controversy now surrounding Title IX, but it is felt that the task forces of the model process provide a greater opportunity for adequate representation of all groups and additional meaningful input into the draft and final regulations. It is believed that civil rights legislation requires as much public involvement as possible in the formulation of its regulations because of its inherently controversial nature, and the resulting need to dispell subsequent debate and dissension to insure its effectiveness.

In the research of the history of Title IX, it was discovered that no records were compiled by the federal government which combined into one central source the development of the law and its regulations. This lack of a definitive source of information was felt to be a partial cause of the continuing controversy over the purpose of Title IX. The model process therefore provides for the compilation of various types of records, as listed in Step III, to eliminate any debate over the intent of an act as well as provide a central source of reference. The careful record-keeping is also intended to aid in providing a sound legal defense, to lessen the amount of litigation and reduce the likelihood of adverse rulings.

A major cause of the controversy over Title IX and difficulty in implementing regulations is believed to be the lack of timely policies and other interpretative information issued by DHEW. Policy statements did not appear with the issuance of the regulations and have been issued only sporadically since. The model process remedies the effects of the late issuance of policies by requiring, in Step VI, that interpretative information be released with the final regulations.

Steps VI and VII of the model process provides for the careful and thorough orientation of regional staff, local interested parties, and others, which from research on Title IX enactment, was felt to be lacking in the actual process. Observations in the field indicate that not enough orientation workshops were held and that regional staff and local educators were not clearly informed of the requirements and the actions they needed to take.

Finally, Step VIII of the model process requires the regulation to be enforced. The failure to enforce Title IX, which has been documented elsewhere, is currently contributing to the lack of progress in the implementation of Title IX.

SUMMARY RECOMMENDATION No. 5: The regulation formulation process should be improved for future use with social legislation similar to Title IX.

CONCLUSIONS . . .

CONCLUSION No. 6:

The DHEW Regional Office could assist the implementation of Title IX by encouraging increased communication among federal, state, and local education agencies and institutions.

During the course of this study, it has become increasingly evident that there is a lack of communication and integration of effort among all of the parties concerned with Title IX implementation within Region X. There are many state and local education agencies and institutions of higher education which are supportive of the objectives of Title IX because they believe in equal educational opportunity. These agencies and institutions are also supportive of a positive voluntary compliance approach to the implementation of Title IX. Currently, however, the only source of formal contact with DHEW on the subject of Title IX is through the Office for Civil Rights (OCR). Because the Office for Civil Rights is charged with only the enforcement of the Title IX regulations, the resulting relationship between OCR and local education agencies and institutions has not fostered orientation towards positive, voluntary compliance.

In addition, from the local perspective, the existence of multiple organizations dealing with Title IX implementation is confusing. Local educators look to the Office for Civil Rights for technical assistance, not realizing that OE is responsible for providing technical assistance. However, OE does not directly provide assistance and instead has contracted with several national organizations to prepare written information on Title IX,as well as with regional general assistance centers to provide assistance at the local level. This resulting network of relationships is confusing to local educators who tend to question any information concerning Title IX which does not directly originate from DHEW or which is not clearly identified as being approved by DHEW.

The confusion is real and sufficiently widespread that the roles of state and federal government and other agencies which provide or receive Title IX assistance need to be clarified and integrated.

One means for accomplishing this clarification and coordination is the establishment of a regional advisory committee on Title IX. The role of the committee would be to advise DHEW and Region X on the specific types of assistance needed by local educators and to assist in developing a plan for Title IX implementation in the region.

The regional Title IX advisory committee should include representatives from the Office of Education (or the representative from the regional general assistance center), the Office for Civil Rights, the four state education agencies, local education agencies,and institutions of higher education. The principal regional official or designee should act as chairperson of the committee because of the several DHEW offices represented on the committee.

The specific tasks to be performed by the committee are:

To identify the interaction needed between the federal agencies (Office *of Education and Office for Civil Rights), federal and state agencies, and state and local education agencies.*

To assist state agencies in the development of specific, time-oriented technical assistance goals and plans, and review and advise on compliance monitoring plans.

To recommend additional ways of securing voluntary compliance which emphasize the positive, good education aspects of Title IX.

To review the results achieved by federal and state agencies in accomplishing their goals and advise on the need for changes to plans.

To annually report to the principal regional official for DHEW on the progress made in implementing Title IX within the Region.

It is anticipated that the advisory committee would need to meet three or four times a year. Staff support should be provided to the committee to arrange meetings, develop agendas, and perform other such tasks. The support could be provided jointly by the Office of Education and the Office for Civil Rights.

SUMMARY RECOMMENDATION No. 6: The principal DHEW Region X official should appoint a representative Title IX advisory committee which would act as a focal point for improving communications and coordination among federal, state, and local agencies. The regional advisory committee would assist in the development of a plan for Title IX implementation within the Region.

CHAPTER VI

STUDIES OF TITLE IX IMPLEMENTATION

The following six studies of Title IX implementation were prepared to illustrate factors of successful implementation and also the obstacles encountered in implementing Title IX in local education agencies and institutions of higher education. The studies are a chronological description of Title IX activities in a particular program, such as athletics; of a particular element of the educational organization, such as a citizens advisory committee; or of activities in all program areas within an institution.

The studies relate broad operational, managerial and philosophical concepts which were observed to affect Title IX implementation. The studies are not intended to serve as step-by-step program models for duplication by other education institutions, nor as detailed compliance audits. They were developed to encourage Title IX activity by providing examples of progress made in achieving Title IX objectives.

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NO. 1 TITLE IX STUDY

Study #1 describes development of an athletic program for women in a public university.

Competitive sports for women is a new program area for most higher education institutions; even the athletically-oriented institution of this example had no intercollegiate sports for women until 1972. Universities developing new programs have had difficulty in determining the structure, staffing, and funding of women's athletics. The university described was selected for study because it had established and expanded women's athletics primarily as a part of Title IX efforts, and because it provided study of major philosophical and administrative difficulties of establishing an athletic program at the university level. The problems discussed in the study, which are shared by most other four-year institutions, are how to organize a new athletic program, how to fund it, and how to resolve the conflict between the revenue-producing, competitive philosophy of intercollegiate sports and the physical education, recreational philosophy of intra/extramural activities.

The university is located in a metropolitan city and has an enrollmemt of over 10,000.

INTRODUCTION

Development of this university's women's athletic program was influenced by a supportive administration and certain unique characteristics of the university. It is a young institution which evolved from a state junior college into a university in 1974. The college doubled its enrollment in its first six years as a state institution, with the result, explained the Title IX coordinator, "that development of administrative procedures and boundaries did not keep up with program implementation. This left the university with a flexible organization, which could adapt easily to change." The university is unique in this aspect, the coordinator believed, and she felt the flexibility of the structure and its staff assisted her efforts to promote Title IX objectives.

Because of its junior college origins, the university has a close relationship to the community. "We are this community's creation", explained the Title IX coordinator. "We are in the public eye, particularly in athletics, and we respond to their wishes."

The community is sports-minded. Off campus, people participate in all types of activities, from racquetball to snow skiing, and are enthusiastic spectators at local school and college events. The university's football games draw sell-out crowds into the 20,000 capacity stadium.

The Title IX coordinator had a key advocacy role in the development of women's athletics. The administration was supportive of the move to equalize sports offerings for men and women, but the coordinator provided the coordination and impetus for change. She explained, "My approach is hands-on and informal. I had many talks with the women's athletics program administrators and coaches. I then brought their needs or problems back to the central administration and worked with the administrative side to prompt the resolution of their needs."

The Title IX coordinator also served as the affirmative action director, a position she has held since 1975. Previously, she served five years as a faculty member and member of the campus affirmative action committee. She felt her knowledge of the campus and faculty assisted her in her work: "Because I had worked closely with the athletic department and was a sports fan during my years as an instructor, I was able to work with the coaches and administrators and understand their problems."

IMPLEMENTATION [1]

Women's sports activities were originally all intramural and governed by the physical education department. A few sports were extramural, but competition was limited. Men's intercollegiate athletics were well established and were operated as a separate department, headed by an athletic director who reported to the university president.

The Title IX coordinator named the Education Amendments of 1972 and its Title IX section as the impetus for the major changes which began to occur in the women's program in the 1973-74 school year. The Amendments, it was felt, brought an awareness of equal opportunity to all of higher education. As a result, those in the women's athletic department recognized that the women's program should offer more and began to note inequities in funding and opportunities.

The university president was immediately responsive to the interest expressed in establishing athletics for women: "There was never any doubt," the Title IX coordinator felt, "that the president believed women should be in athletics. The problem was how to initiate and build the program."

In 1973-74, as a result of the interest in women's athletics, a women's intercollegiate athletic council was created within the university to identify the first athletic sports and advise the operation of the program. This was the first official recognition of women's sports as intercollegiate. The women's basketball coach chaired the council and performed administrative functions, although she was still considered a physical education professor with release time for coaching. In that first year, nine sports were named intercollegiate. Funding for women's athletics was still funneled through the physical education department, however, and all women's sports activities continued to be regarded as a part of that department.

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[1] *A summary of the development of the women's athletic program appears at the end of this study.*

In 1975-76, the basketball coach was officially named the assistant director of athletics for women's programs and instructed to report to the university's athletic director, who also headed men's sports. The women's athletic program and the men's athletic program were thus placed together in the same department.[2]

The proximity and equal status of the men's and women's programs induced a change in attitude by those in the men's department. The women's assistant director explained, "They thought the women were out to get everything they had. Then they saw that we were in the same situation as them, competing for funds and attention because that was the situation and it had to be done." The move built trust. The women's director continued, "It was very difficult at first to deal with the athletic director who was nervous about what we wanted to do. Now we have some idea of where we are going and he trusts our good intentions."

The move also brought accountability to the women's program, which the women's assistant director felt was needed. She described herself as "green": "I knew sports but did not have the necessary administrative skills." Administrative control was not emphasized in the previous years when the program was limited in size and required minimal funding.[3] But with the first formal identification of a budget for the women's program in 1974-75,[4] attention was focused on the women's assistant director to organize and administer the program.

The assistant director for the women's program had both a philosophical conflict and a unique pattern of program growth to consider in structuring the women's program. The athletic program expansion was a part of the entire university's rapid growth during 1972-75. "Every single dollar", explained the Title IX coordinator, "went into hiring instructors to keep abreast of increasing enrollments. The rapid growth meant that some administrative areas were overlooked. Established institutions used additional funds to hire administrative staff, but at this university, all available funds went towards instructional staff. This resulted in a situation in the women's department of hiring a director to structure the women's program after much of the growth had occurred." The women's director pointed out that, "In other colleges, my peers had been hired to initiate growth. At this university, however, growth came almost by itself and I was hired to create an administrative structure after-the-fact."

Developing an administrative structure was difficult. The women's director had an instructor/coach background and the large-scale operational details of a program budget, policies and procedures were new to her.

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[2] *An organization chart of the university's athletic department appears at the end of this study.*

[3] *Exact budget figures for women's athletics are not available prior to 1974-75 because expenditures for coaching release times and administration costs were absorbed in various parts of the total athletic/PE budget and are not separately identifiable. However, the program was very limited in size and funding prior to 1974-75.*

[4] *The first formal budget amounted to $30,600 in 1974-75.*

Development of her administrative skill was hindered because she served only one-quarter time as an administrator. The position became full-time in 1978. Also, because of the university's newness and lack of tradition, there were no guidelines for her to follow in establishing the program.

But the most important factor in the department's development was establishing a philosophy of operation. The women's athletic program was influenced by the recreational philosophy of its predecessor, the intramural program. The intramural/physical education philosophy valued sports as pleasurable, physical development activities which were part of the educational program. With the emphasis on personal development, competition as a group was minimized and there was less pressure to win. Spectators were not considered important to the purpose of the activities and intramurals, therefore, generated little revenue. According to the women's program director, "Under the physical education philosophy no one sport was considered more important than another, and coaches were evaluated on a larger basis than their ability to produce winning teams."

A direct opposite to the physical education philosophy was the competitive sports model of the men's program. The men's program of the university was divided into the top "king-pin" sports of basketball and football, and the minor sports of wrestling, golf, tennis, track, and baseball. The division was made on the basis of revenue and publicity generated for the university. The two most popular spectator sports had in the past contributed,through student fees and gate receipts, two-thirds of the university's entire athletic program revenues. The major sports also brought prestige and publicity to the community as well as to the university, and were a source of pride and enthusiasm for both. The emphasis on achievement resulted in pressure on coaches and players to win. Recruiting, training, funding, and hiring were all based on the goal of winning.

Thus, the women's program director had to set a philosophical direction for the program as well as manage it. Before establishing the goals for the program, she had to first determine whether the program should continue with its physical education orientation or ascribe to the men's department emphasis on winning. She explained, "I was trying to figure out how to keep both groups satisfied. I was in the middle. But the administration was always supportive. They wanted a decision, but never said I had to make it one way or the other." However, she felt that the women's program was gradually changing to conform to the competitive philosophy of the men's program.

Understanding the male competitive model enabled the women's program director to counter the initial resistance to increasing the funding and use of facilities by the women's program. She described the difficult position of the basketball coach: "He knew his job was based on his team's winning and wanted the best equipment and practice times for training. So when the decision was made to rotate prime time practice hours between the men's and women's teams, he protested." But the athletic director who was responsible for both the men's and women's programs was aware of the administrative support for women's athletics and, as a consequence, insisted on equalizing prime practice time. The first year, the women's basketball team had an hour a day of practice time, three days a week, in the morning. The next year, it was increased to an hour a day, five days a week, and then to an hour and a half, five days a week. Beginning in the fall of 1978, the early afternoon and late afternoon practices will be rotated between the two programs. Commenting on the effect of the rotation of prime practice time on the men's basketball coach, the women's director said, "You had to admire him. You knew his job was at stake. He would have raised the roof in earlier years. This time he came to me and we talked about it. We disagreed, but we talked."

The women's athletic director credited a supportive university administration for the progress made towards equity in equipment, funding, and facilities. The Title IX coordinator, as a part of the supportive administration, worked closely with both men and women's athletic programs. When inequities were identified, she brought them directly to the attention of the university president, who in turn instructed the athletic director responsible for the entire department's budget to make the changes.

The university's Title IX self-evaluation was begun in the fall of 1975 under the direction of the Title IX coordinator. The coordinator provided each department with a form that she had developed, and asked that their findings be given to her for her review. The two athletic program directors were asked to complete the forms separately and then jointly review them.

Upon review of the athletic evaluation, the coordinator felt that several areas were not dealt with adequately and went back to the directors to have them develop recommendations for action in the areas of funding, equipment, scheduling, coaching assignments, facilities, and scholarships. The revised evaluation was submitted to the university president and action was initiated on the recommendations.

One of the recommendations was for an increased budget for the women's program for game equipment and office supplies. In the spring of 1976, the university requested a $50,000 appropriation from the State Legislature for the 1978 school year. It was realized by the president and Title IX coordinator that the women's program needs had outgrown the indirect source of funds received from student body dues and gate receipts. It was decided to continue the indirect funds and supplement them with state monies requested from the State Legislature. The men's program had been receiving funds appropriated by the Legislature for salaries. The appropriation requested for the women's program was for salaries and program operation. Seeking dollar support from the State Legislature was reasonable, the Title IX coordinator felt, "because the university had a good justification for the request. I checked the women's athletic budgets at the other state universities and found that ours was much lower. In view of the popularity of sports in the area and the equal rights forces in general, it was a good argument at the time," she explained.

The appropriation was approved and the women's budget rose from $67,000 in fiscal year 1977, to $111,800 in the next year. The increase in funding provided for purchase of office supplies and equipment, uniforms, and game equipment. Prior to this allocation, the women's athletic program had use only of the limited equipment and supplies of the physical education department.

It was also in 1976-77 that the university president acted upon a second recommendation contained in the self-evaluation to provide scholarships to encourage female participation in athletics. The president allocated $10,000 of discretionary funds for use in recruiting women athletes. Once again, the women's director felt a conflict with her physical education orientation. She objected to "buying bodies" but, at the same time, realized that providing grants was a means of encouraging women's participation and improving competition with other colleges. The scholarships were awarded.

The evaluation of the athletic programs discussed the limited athletic facilities for the expanding programs. Both gym and locker room facilities were inadequate for the amount of use. Women athletes were assigned the visiting team locker room which did not have enough lockers, a team meeting room, or equipment storage. Men's facilities were adequate but would not accommodate continued program growth. To provide better facilities for women athletes, a booster club meeting room in the gymnasium complex is being converted into office space for coaches, and a section of the men's physical education locker room is being remodeled to provide expanded equipment storage and training room facilities for women. There is a request pending before the State Legislature for a multipurpose pavilion. "In the meantime", explained the Title IX coordinator, "we hope to split the inadequacies equally."

Another major area of inequity brought out in the self-evaluation was the need to equalize contract periods and time assignments of coaches. The report pointed out several disparities between the two major revenue-producing men's sports and the non-revenue sports of both the men's and women's programs. Football and basketball coaches were on twelve-month contracts with no other assignments. The minor, or non-revenue, sports carried contracts of five to nine months and additional coaching and teaching assignments. The recommendation was made to provide ten-month contracts to coaches "under pressure to recruit and/or have winning seasons"; that the women's athletic director's position should be at least one half-time with a ten to twelve-month contract; that all coaches responsible for two sports be given 33% release time; and that additional coaches should be hired so that no one is head coach for more than one major sport.

The women's program budget has grown in four years from 4% of the total athletic budget to 16%. [5] There is a one million dollar difference between the men's and women's programs. The Title IX coordinator noted that, "The bulk of the difference is in scholarships and game guarantees." The scholarship difference in particular, she felt, is indicative of the continuing philosophic disapproval by women coaches of "full ride" scholarships.

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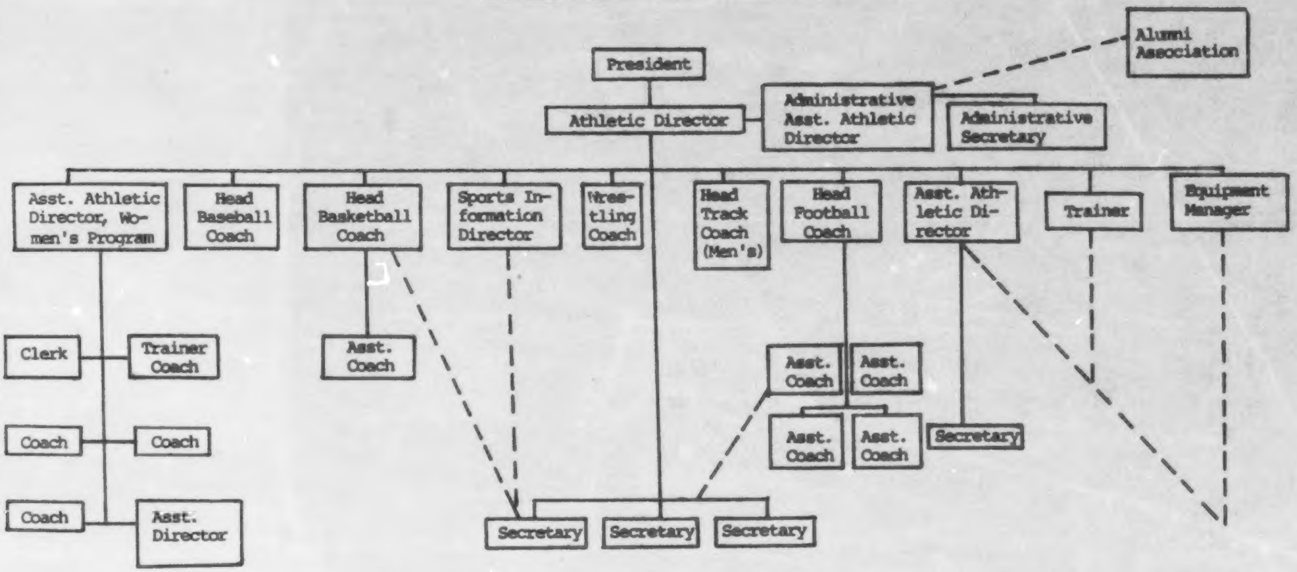
[5] *The 1977-78 budget totals of the men's and women's programs appear in the chart at the end of this study, which also lists the number of athletes by sport and sex.*

The women's director is a firm believer in the physical education philosophy but foresees that the program will continue to move toward a competitive model. She explained, "I know we have to follow the male model to survive, dollarwise, but I don't know in my heart that it is the right way to go. But we are in the money business whether we like it or not and it's impossible to go back."

SUMMARY OF WOMEN'S ATHLETIC PROGRAM DEVELOPMENT
TITLE IX STUDY #1

Prior to 1973-74	Women's sports intramural and a part of the Physical Education Department. Men's intercollegiate sports well established and operated as a separate department.
1973-74	Women's intercollegiate athletic council created which identified nine competitive sports. Funded through Physical Education Department.
1975-76	Women's athletics assigned equal status to men's program, and removed from the Physical Education Department. Assistant Director for Women's Program reported to Athletic Director, as did men's program. Title IX self-evaluation conducted. Recommendations adopted by president.
1976-78	Women's program granted appropriation from State Legislature to supplement local funding. Increase provided office supplies, uniforms, and equipment. Recommendations of self-evaluation implemented. Athletic scholarships, facilities, and contract periods of coaches established or revised.

ATHLETIC DEPARTMENT ORGANIZATION
TITLE IX STUDY #1


President
Athletic Director
Administrative Asst. Athletic Director
Alumni Association
Administrative Secretary
Asst. Athletic Director, Women's Program
Head Baseball Coach
Head Basketball Coach
Sports Information Director
Wrestling Coach
Head Track Coach (Men's)
Head Football Coach
Asst. Athletic Director
Trainer
Equipment Manager
Clerk
Trainer Coach
Coach
Coach
Coach
Asst. Director
Asst. Coach
Asst. Coach
Asst. Coach
Asst. Coach
Asst. Coach
Secretary
Secretary
Secretary
Secretary

NUMBER OF ATHLETES BY SPORT AND SEX
TITLE IX STUDY #1
1977-78

Sport	Men's Program	Women's Program
Football	93	-
Cross-country	10	5
Basketball	20	24
Wrestling	35	-
Baseball	38	-
Track	33	15
Tennis	7	7
Golf	10	-
Gymnastics	-	11
Volleyball	-	14
Field Hockey	-	21
Total Participants	246	97
Total Budget	$1,081,200	$170,760

NO. 2 TITLE IX STUDY

Study #2 illustrates Title IX implementation in a small, rural school district.

The district was chosen for study because of the accomplishment of major Title IX objectives despite what appeared to be major potential barriers of limited funds, geographical isolation, and a potentially resistant community. The Title IX coordinator was the key figure in the district's efforts to achieve educational equity. The district's implementation is examined from his perspective and illustrates his low key approach and encouragement of staff and community involvement.

The school district encompasses a high school, middle school, and an elementary school, all located in the district's largest town which has a population of 3,200. The district's 1,340 students live in a 4,938 square-mile area. The community is conservative. The people take pride in local autonomy and value independence from government control. The predominant religion supports traditional male and female roles.

INTRODUCTION

The Title IX coordinator served as the administrative assistant to the superintendent. Prior to his appointment to the district office position in the summer of 1976, he was the high school principal for four years.

The coordinator felt that his status as a resident and school official influenced people's acceptance of his efforts. He personally knew school faculty and community members and understood community attitudes. Most important of all, he felt, he had developed a good rapport with the people and felt that what he was trying to do was respected. Also a factor in his ability to initiate changes was the physical distance of the parents from the schools. Coming from such a widespread area, with homes miles away from the schools, the people of the community were not active in school affairs and did not join together on any school issues to form an influential force. Certain changes brought on by Title IX were protested, but not by a majority of the parents.

The coordinator carefully explained Title IX objectives to minimize community resistance. He avoided any reference to the women's liberation movement and the Equal Rights Amendment which were two emotional issues within the community. He adopted a definition of equal opportunity for all individuals and avoided, as he said, "any connotation of taking from the boys to give to the girls." He sought acceptance and approval of Title IX objectives by parents and school staff by establishing a district advisory committee and evaluation teams for each building. His belief was that, "people are more receptive to change if they have some influence in the decision-making."

IMPLEMENTATION

The Title IX coordinator began his administrative assistant duties in the summer of 1976. Shortly thereafter, he was assigned the responsibility by the superintendent to initiate Title IX in the district. No Title IX action had been taken prior to this assignment. The coordinator reported to the superintendent and reviewed actions with a district administrative team comprised of the three school principals, director of special services, and the superintendent.

The board of trustees had identified Title IX as a priority for the 1976-77 school year and instructed that compliance was to be achieved as soon as possible. The first step the coordinator took was to obtain information on Title IX. After reviewing with the administrative team the self-evaluation guidelines provided by the state education department, the coordinator concluded that certain changes in high school physical education and athletics could be initiated simultaneously with the self-evaluation. Title IX implementation was therefore both immediate and long-range. By the opening of school in the fall of 1976, the coordinator had initiated immediate revision of several programs and, for long-range revisions, established an advisory committee to oversee the district self-evaluation.

The most controversial immediate changes were to offer coed physical education, open the lettermen's club to females, and require cheerleading support for girls' games. The Title IX coordinator had anticipated protests but felt that any controversies would not become great enough to halt Title IX actions. He believed that if people did not interpret Title IX actions as threats to their religious beliefs or personal attitudes, that they would accept the district's charge to comply.

When coed physical education was established in the fall of 1976, the girls objected because they were afraid they could not compete with the boys' strength and skill. Boys objected because they felt they would be held up by the girls' lesser skill and were uncomfortable with the idea of attending a mixed class. Parents supported their sons and daughters. The full force of the objections was felt by the principal, who was closest to the issue and the students. The coordinator had the role as the official requestor and enforcer and remained in the background. The principal was, in his own words, personally committed to the spirit of Title IX and therefore carried out with personal conviction his administrative orders to integrate physical education. There was a heated controversy that fall, he admitted, but it did not go above his office to the superintendent or school board. He described the community as upset about the change but that it gradually accepted his explanation that the change was not harmful, that it was "good education", and, as a bottom-line argument, that it was the law. The protests gradually diminished and by the next fall, in 1977, the coed offering was not questioned.

The other two controversial areas of change were the integration of the lettermen's club and the requirement of cheerleading coverage for girls' games as well as the boys'. The lettermen's club was opened to female membership by combining it with the girls' intramural organization. The boys protested the inclusion of girls. A parent described the reaction: "It was as if the boys were getting kicked out of their favorite pool hall by the girls." Girls' reactions were mixed. Some strongly voiced their right to be members while others argued against the resulting pooling of money that had been raised by the boys for the lettermen's club and by the girls for their former intramural activities. The girls had in the past raised money through outside school activities such as car washes and had a larger fund than the boys, who raised money only through an annual sports day and awards banquet.

The controversy continued throughout the year partially because, the coordinator felt, of the direction given by the faculty advisor of the lettermen's club. He explained, "One of the things that is a key to everything is the person who is in charge. The club sponsor was not totally sold on the idea of equal opportunities for everyone, and that was part of the problem because the kids picked up on it."

The cheerleading controversy resulted from the requirement that girls' and boys' teams be represented equally. A mother of a cheerleader described her daughter as saying that it was "silly" to cheer girls' competition in volleyball when there were so few spectators. Moreover, the four cheerleaders objected to the increased number of games they would have to attend. The school administration resolved the last objection by increasing the number of cheerleaders. This dismayed the protesters even more because they felt the prestige of being a cheerleader would be lost when twenty girls were selected. But resistance to this change also diminished in time. However, boys are still unwilling to become cheerleaders. "It is simply not thought of as masculine and not socially accepted," the coordinator explained.

In addition to the controversial changes in the lettermen's club and cheerleading, school officials faced the barrier of adequate funding for the expanding athletic program. Prior to the 1977 school year, girls' activities were extra/intramural. With the implementation of Title IX, three interscholastic sports were established for the girls: volleyball, basketball, and track. This increased expenditures in uniforms, equipment, and, for this rural school, also greatly increased travel costs. The athletic director explained that teams had to travel great distances to find competition. From the opening of school through the basketball season, boys' and girls' teams traveled 14,000 miles.

Athletic funding was a problem but it was never considered insurmountable. The coordinator said, "We never looked at finances as a restraint. We can't. It was decided that the money should be spent." He added that the expenditures were not enormous. "It took money to start the girls' sports, buying uniforms and the like, but not that much equipment was required. The sports were still small in size." In previous years, revenue generated by the boys' basketball and football games had supported the entire boy's program. Within the last two years and especially after the establishment of girls' athletics, the funds from gate receipts were not adequate. The school board assumed the responsibility of continuing the athletic program by allocating funds in the school budget.

The school's isolation also resulted in scheduling problems. The school was not in a league. Instead, competition was arranged with the closest schools. Scheduling the same number of games for girls as for the boys was difficult. There were either not enough schools close by, or the nearby schools were larger and had better teams, resulting in unequal competition. The scheduling problems still exist, said the athletic director, but every attempt is made to schedule as many games as possible for the girls.

The athletic director noted that sports were the community's entertainment. In the rural area, sports were valued for the students' development and for the spectators' enjoyment. The emphasis on sports included intramurals as well. Students not participating in interscholastic competition were encouraged to join the intramural teams.

While the physical education and athletic changes were being implemented, the coordinator was also initiating the district self-evaluation. He did not conduct the self-evaluation on his own because he felt that staff and community involvement was important. He, therefore, created a district advisory committee and evaluation teams for each of three schools. The role of the Title IX coordinator with the two groups was that of facilitator. He directed and informed the two groups but encouraged them to take the initiative. Their participation ensured that various perspectives were considered and, more importantly, he felt, they served as a "communications link" by sharing their information with others not on the committees.

The district advisory committee was comprised of six members and included teachers, lay people, and school administrators. They were selected by the coordinator to represent possibly resistant, as well as supportive, factions within the community. The committee assisted with affirmative action and Title IX compliance, as defined by the board of trustees, and reported to the superintendent through the coordinator. The committee first met in September of 1976. Over a one-year period, it studied the major areas of the district's operations to prepare recommendations for Title IX compliance.

The building evaluation teams conducted their surveys simultaneously with the advisory committee's district-wide study. Three teachers served on each team. They were provided with self-evaluation guidelines and studied each school's operation separately. Later they compiled all the findings on the three schools and presented them to the district advisory committee.

In all of the buildings, the teams encountered either passive resistance to federally required action, or fear from a misunderstanding of what could occur as a result of the study, such as loss of a job. However, for the most part, the teams worked on their own and were of only peripherial concern to the other staff. Inequities were different in each building. The elementary school programs were already coeducational and that building's study accordingly concentrated on staff employment inequities and the importance of teacher awareness of traditional male and female roles. Teachers, for instance, were informally contacted and asked to be aware of sexist references they might make. In the middle and high schools, the teams found that program changes were needed in the major areas of counseling, PE/athletics, and vocational education. The concern for those teams was what to recommend to do first. As discussed earlier, athletics and physical education was revised immediately. In the area of counseling, the counselors themselves conducted a study following a self-evaluation guideline provided by the coordinator. They reviewed all their counseling materials and consulted the state education office and other sources for recommended non-sexist testing materials. The superintendent and school board had already made the commitment to meet Title IX requirements, the coordinator explained, so whatever materials were needed were ordered.

Counseling was also examined for its effect on vocational education enrollments. At the junior high level, the most significant inequity in male and female participation were the vocational programs of home and family life education and auto mechanics. The counselors now encourage male enrollments in home and family life and female enrollments in auto mechanics by presenting them both as available options to a student, rather than automatically eliminating one choice or the other because of the sex of the student.

After completing their individual building evaluations, the three teams met to combine their findings into a single report. The report was then reviewed by the district advisory committee which submitted it, along with its own district-wide survey, to the superintendent and his administrative team. The recommendations were then approved and prioritized by the school board for full implementation by 1979.

The Title IX coordinator felt that the district was not fully in compliance in all areas but believed that much had been accomplished in spite of the potentially resistant community because of a low key approach which stressed equal opportunity as a goal of education and not as a threat to personal beliefs. "The parents are gradually accepting the changes," he explained. "As for the students, last year's issue doesn't exist today. Program changes that seemed odd only last year are accepted today as the way they should be."

NO. 3 TITLE IX STUDY

Study #3 describes the development of a senior high school athletic program for girls in a large, decentralized, metropolitan school district.

The district athletic coordinator was instrumental in the resolution of two significant Title IX issues for the district: 1) the equalization of coaching stipends for all interscholastic sports, and 2) the formal recognition by the district of girl's sports as interscholastic. The district faced equalization problems in many aspects of its athletic program development, such as scheduling of practices and games, provision of practice and locker room facilities, and provision of uniforms and equipment. However, this study focuses on the first two issues mentioned which involve assignment of funds and staff to the girl's athletic program.

The study illustrates that staff can provide the leadership for Title IX implementation, even without direct line authority. In addition, the study illustrates the influence of citizen groups and faculty, and the effects of a civil rights lawsuit upon the district's compliance efforts.

The school district encompasses 13 high schools, 17 junior high schools, and 85 elementary schools.

INTRODUCTION

Title IX was not evenly implemented in all its aspects throughout the district. Indeed, the only significant progress was made in athletics because of two unique factors: 1) the presence of an individual in the district office who took unusual incentive to effect equal opportunity in athletics, and 2) the existence of concerned citizens who pressed for revision of the athletic program. It should be noted that this study examines the athletic program development only from the perspective of the district staff member (the athletic coordinator) and his reactions to community and legal pressures.

The implementation of the girls' athletic program covers a period of nine years, from the fall of 1968 through the 1977 school year. The critical years of development were from 1970-75. During this time, the athletic coordinator intervened at several stages of the program's development to promote necessary staffing and funding. The coordinator realized that verbal support of a girls' program must be accompanied by a clear designation of coaching positions and funding in the district budget. Hampering this designation was the district administration's persistence in considering the girls' program as intramural even when girls' sports were declared interscholastic. Prior to 1969, girls' activities were purely intramural, with some sports day and extramural competition between schools arranged by physical education or intramural instructors on a voluntary basis. But even when sports

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were later designated as interscholastic, funding was continued from intramural sources in the budget. As discussed later in this study, the intramural source of funding became a key issue in the development of the girls' athletic program because it precluded official recognition of the girls' coaches and provided the basis for continued inequities in coaching stipends between the boys' and girls' programs.

The athletic coordinator initiated the resolution of the issues just described. He did not have the formal authority [1] to revise athletics offerings or their funding , so he instead took the initiative to "set the stage", so to speak,for action by his supervisors.

KEY GROUPS

There were four key groups which influenced development of the school district girls' athletic program: 1) the district athletic office staff, 2) a girl's sports advisory committee, 3) a principals' policy-making committee, and 4) the district's women physical educators.

Most of the athletic program development occurred after 1970 under the influence of the athletic coordinator, who joined the district staff in 1964 as assistant athletic director and became head of the office in 1971. He had 17 years experience in athletics as instructor, coach, and administrator. Another influential staff member of the athletic office was a woman administrator who in 1970, became a half-time assistant to the coordinator and served to provide liaison with the women coaches. Later, in 1973, a full-time position as assistant coordinator was created in the athletic office for the successor of the part-time liaison. Both women had physical education backgrounds and experience as instructors and coaches.

The principals' committee was an executive body with a membership of representatives of the district high school principals and non-voting representatives of men and women coaches and school activity coordinators. The committee was a means of coordinating the athletic activities of the district's schools, which had individual responsibility for implementing their particular programs. The committee formulated rules and regulations for the league and the existing athletic program.

Some of the district's women physical educators organized themselves in 1969 to represent their shared concerns with coaching stipends and development of a girls' athletic program. The group served as a voice for students, community members, and other faculty and administrative staff on the issues occurring during the development of girls' sports. The group provided the pressure for development and expansion of the program.

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[1] *The district's organization is decentralized. Staff of the central office have a responsibility to coordinate activities within the district and do not have direct line authority over operations within the schools. District staff set the tone of operations and provide broad guidelines for the entire district, but implementation is the responsibility of each principal. Staff in the counseling and athletic office, for example, assist the schools in implementation but do not directly control activities.*

The women physical educators were represented on the district sports advisory committee established by the principals' in 1968 in response to the growing interest in sports for girls. The advisory committee made recommendations to the principals' committee and worked with the district athletic director/coordinator. Its membership included one coach from each sport of the boys' and girls' programs, and selected administrators.

IMPLEMENTATION [2]

Interest in a girl's athletic program was expressed prior to the 1971 enactment of Title IX. The impetus for change came from the students themselves. Several high school girls asked in 1967 that they be allowed to join the boys' tennis and golf teams, two sports which were not included in the girls' purely intramural program. At that time, the girls had a program of intramural tournaments and extramural play days for volleyball, basketball, softball and track. The boys had interscholastic competition in football, cross-country, basketball, track, baseball, tennis, and golf.

In January of 1968, the athletic staff in the schools took action on the students' interest in coed golf and tennis by requesting the principals' committee to allow girls to participate on the boys' teams. This was the first indication to district staff that anything more than intramural sports was desirable for girls. As the district athletic coordinator explained, "Prior to this, we just assumed everyone was happy with the existing program of activities for girls."

Coed teams had no precedent in the district and the principals tabled the request to await direction from the state association which governed women's sports. As time passed, the women physical educators began pressing for more than coed golf and tennis for their students, expressing their desire for a girls' athletic program which would include other interscholastic sports as well as golf and tennis. Six months after the tabling of the initial request by school staff, the women physical educators formally requested the principals to adopt a girls' program based on student interest and the increasing sophistication of girls' intramural sports. Certain activities, such as volleyball, had expanded beyond competition within the school and were outgrowing the limited five-game schedule as extramurals. Students and instructors were asking for advancement into league competition which required recognition of a sport as interscholastic. [2]

The request was denied by the principals, again on the grounds of lack of precedent and administrative direction. Two months after the denial, in September 1968, the principals received a response from the state association for women's sports. The association recommended to all school districts in the state that they each establish an advisory committee to assist the development of a girls' athletic program within their district. In view of the increasing pressure from the women coaches, whose interest in a girls' program had not diminished, the principals established a sports advisory committee in the fall of 1968.

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[2] *A summary of the development of girls' athletics is provided at the end of this study.*

[3] *Intramural activities are limited to competition within a school; extramurals are limited activities between schools, on a "sports day" basis. Interscholastic sports are recognized league competition.*

The first recommendation of the advisory committee was to establish an interscholastic sports season for girls. The athletic director polled the principals on their choice of sports from among the strongest of the existing intramural activities. The interscholastic selections were volleyball, gymnastics, and track. In addition, four sports were offered on a extra/intramural basis: golf, tennis, basketball, and cross-country.

During the approval of the three-sport program in the fall of 1968, the district was developing a levy package. A small amount of money was allocated in the levy for the supervision of the girls' new extramural sports. But the significant debate was not on the amount of funding, but whether the money was designated for athletic coaching stipends, or for extramural supervising pay. The debate arose because of conflicting philosophies on the development of girls' athletics. Some staff and faculty desired retention of the intramural characteristics for girls' sports, in which the recreational aspects of sports was emphasized over competition and "playing-to-win". They did not want girls' competition to be patterned after that of the boys which, they believed, exerted too much pressure on the participants and undermined the concept of sports as part of the total academic program. In contrast, other staff and faculty sought full implementation of girls' athletics along the model provided by the boy's program.

The district administration attempted to reduce the controversy by continuing its designation of funds for girls' sports as intramural. This designation presented a problem for the athletic director, who supervised competitive sports before the district reorganization, and the physical education director, who supervised intramural activities. The competitive sports for girls were growing in popularity, presenting the athletic director with the problem of locating funds for additional coaches. The physical education director, on the other hand,received all the additional stipends of the levy package. But the intramural program was dying as the three interscholastic sports grew in popularity, resulting in a surplus of funds from unused supervising stipends. In summary, the money assigned to intramurals was needed by the athletic director.

The athletic director made an agreement with the physical education director to re-allocate intramural funds as interscholastic stipends for 1969-70. Thus, girls' sports coaches were paid from intramural sources administered by the district PE office, while boys' sports coaches continued to be paid from athletic office funds, the usual source of interscholastic sports monies.

The source of funds for girl's sports coaches became a central issue in the next several years. To women's athletics advocates, the intramural source represented a lack of serious consideration by administrators of the viability of girls' athletics. With the funding relationship to intramurals, the women athletics advocates felt that administrators would continue to regard interscholastic competition for girls as recreational, impeding development of an athletic program. The intramural funding source produced problems in equality of pay and status also. The district regularly published a list of recognized coaching positions and stipends. Intramural coaches were never included on this list. Because of their intramural funding, the new girls' sports coaches were excluded from the list also and therefore were not officially recognized as interscholastic sports personnel. Likewise, the amount of stipends was always less for intramural coaching than interscholastic coaching. With the continued relationship to intramurals, the new interscholastic sports coaches found themselves receiving intramural pay and had difficulty equalizing their stipends with those of the boys' sports coaches.

The stipend concerns were voiced to a woman administrator in the district physical education office who began acting as an unofficial liaison between the athletic office and the women coaches. Her role developed because of her interest in the athletic program and her subsequent assistance with athletic office planning. She first participated in the planning of the 1968-69 interscholastic offerings and continued her participation for two years. Her role as a representative voice in administration was important to the women coaches who felt there was poor communication in formal channels between themselves and their immediate supervisors, the schools' PE department heads. Through the liaison, they communicated directly with the district athletic office which they felt would take action.

At the opening of the 1970-71 school year, the liaison relayed to the district the coaches' continued resentment of the intramural funding and their desire to advance the remaining intramural sports into interscholastic competition. The athletic director took the proposed intramural sports change to the principals, but received no response. He took the initiative to insure that the intramurals were at least continued, with the hope of introducing them again later as interscholastic possibilities. Together with the liaison, he organized tennis, golf, cross-country, and basketball on a sports-day (extramural) basis.

This action was not within the coordinator's assigned responsibilities, but was taken because he felt the need existed and wished to prompt the appropriate administrators into action. He described it as "a-foot-in-the-door"approach. Once the activities were scheduled and people assigned to them, a request was made to the district fiscal office for funding of coaching stipends. As a result, monies were provided to supplement the intramural funds, and assigned to the athletic office.

The athletic coordinator repeated his "foot-in-the-door" approach to achieve an expansion of the girls' program in the 1971-72 school year. In the fall of 1971, the athletic coordinator was instructed to poll schools to determine student interest in sports. He then volunteered to organize and assign staff to the selected girls' activities to get their athletic program underway. Once the need was established, a request was made to the district fiscal office for additional funding to support the program. The funding was provided.

In the 1971-72 school year, the girls' program continued its three interscholastic sports of volleyball, track and gymnastics, but pressure was increasing to advance the intramural sports of cross-country, tennis, golf, and particularly basketball, into interscholastic competition.

In March, 1972, the sports advisory committee made a recommendation to the principals that schools be allowed to register for interscholastic basketball. The principals approved the recommendation in May, under the conditions that school participation be optional and require no additional funding beyond the established extra/intramural amount.

Thus, during the 1971-72 year, the girls' program was gaining strength. But its coaches still had several concerns. Besides the issues of unequal stipends and lack of recognition, the coaches also pointed out the unequal distribution of facilities, length of sports seasons, and trophies. Also, the liaison in the athletic office was "surplused", i.e., returned to the instructor staff. This left the women with no voice in the administrative office, a move they protested.

The coaches' discontent culminated in a complaint filed with the Human Rights Commission in September, 1971, which listed inequities for women in coaching and administration and for female students. The athletic coordinator described the filing as an impetus to development of the girl's program District action on the athletic program was influenced by the negotiations, for three years, until reconciliation was reached in February, 1974.

The primary complaint was unequal coaching stipends between the boys' and the girls' programs. However, the athletic coordinator realized that the stipends would not be equalized until: 1) girls' sports were recognized as the interscholastic offerings they were proclaimed to be and not as intramurals and 2) the sports' seasons were equal in length. He spent the next three years attempting to achieve both of these conditions.

The funding source of girls' athletics was corrected in 1972. The negotiation team, in its efforts to resolve the suit filed against the district by the State Human Rights Commission, had prompted the district officials to release a statement of equal athletic opportunity:

> "It is the intention of the school district to integrate boys and girls in the athletic program for the purpose of bringing them into common and equal membership on athletic teams and to provide competition, events, and instruction which is commensurate with their physical abilities, sports seasons and athletic rules and regulations. While duplicate positions for men and women coaches are not provided for, necessary and appropriate instruction and supervision shall be provided."

The athletic coordinator acted upon the statement by sending a recommendation to the district officials, stating that, "It will be necessary to have additional monies made available for coaches if we are to accomplish the...goal. It is suggested that an amount equal to 12 secondary intramural stipends...be transferred from the intramural budget of the physical education department and made available for athletic coaches' stipends. Actually, the intramural funds have been used for the past three years for the same purpose, but having the funds come out of the intramural budget has caused confusion. Under the proposed arrangement, men or women would be assigned as coaches or assistant coaches of girls' and boys' sports at the same hourly rate, but for varying amounts of turnout time and/or length of season." The recommendation was adopted. The coordinator had corrected the intramural source of funding for girls' athletic coaching but, as the last sentence of the quote indicates, was still faced with the problem of unequal lengths of sports seasons which continued unequal seasonal stipends.

Thus, at the opening of the 1972-73 year, the girls' sports staff was recognized but not paid equally to that of the boys' sports staff. The argument against equal stipends was that the girls' seasons were shorter. The athletic coordinator took action to equalize sports seasons. In the spring of 1973, the coordinator suggested to his supervisor that the district could anticipate a request to make the girls' seasons equitable with those of the boys', and that the request would be included in the civil rights negotiations. The coordinator's recommendation was approved and the women coaches' and assistant coaches' stipends became equal to those of the men's.

In February 1974, a conciliation was reached between the school district and the State Human Rights Commission. The agreement required revision in certain areas of the athletic program: Increasing the percentage of women in positions as activity coordinators, deans and department heads; establishment of additional coaching positions in girls' cross-country, volleyball, golf, tennis, basketball, track, and gymnastics; and awarding of back pay to women who coached girls' gymnastics and track in the amount of the difference between stipends paid girls' coaches and those paid boys' coaches for the same sports.

The establishment of additional coaching positions was an important point in the process of recognizing coaches of the girls' program. In the previous year, the coaches had been granted the same hourly rate of pay but a continued issue was that many of the assistant coaches were in reality acting as head coaches. The conciliation agreement resolved this issue by providing head coaches for girls' sports, as boys' sports already had, and also provided additional assistant coaching positions. The agreement provisions were enacted in August, 1973. The stipend schedule published for 1973-74 fully listed, for the first time, the girls' program staff along with the boys' program staff. The five-year controversy over identification of girls' coaches for athletics was ended.

In January of 1973, the district established a full-time assistant coordinator in the athletic office as successor to the unofficial women's liaison of 1970-72. The coordinator described the woman administrator's assistance as "invaluable to communication between the two groups. Her conciliatory attitude was important in keeping things under control. She could explain to the women that their concerns were being heard but that it took time to put the new program into the district administrative structure."

In the fall of 1975, the assistant coordinator chaired a Title IX advisory committee which analyzed senior high athletics. The primary battle of identifying athletic staff and funding for the girls' program had been resolved. But the boys' and girls' programs were not equitable in many other aspects.

The Title IX advisory committee was established at the request of the associate superintendent governing the athletic office. The committee was one of many initiated by the district Title IX coordinator for evaluation of all the district's programs. The athletic advisory committee was comprised of six coaches representative of the high schools in the district. It presented a final report to the associate superintendent in May of 1976. The report described in detail many needed improvements and noted that, "If equal opportunity is to become a reality, individuals must recognize that the past cannot set a precedent for the future. Priorities must change...." .

The advisory committee reported unequal treatment in publicity; provisions of equipment, uniforms, and supplies; funding based on need; level of coaching; access to locker rooms, practice facilities, and other support facilities; scheduling for prime time audience attendance; and representation in athletic administration within schools. The committee made specific policy and action recommendations in each area.

The athletic report was combined with reports on other program areas for a districtwide Title IX evaluation. To monitor implementation of the recommendations, the associate superintendent established an administrative committee which surveys compliance with all civil rights legislation. Schools are required to perform self-evaluations each year and the Title IX coordinator makes site visits to assess compliance.

The athletic coordinator is no longer the initiator of program changes. He noted that, "People are generally accepting the need to revise the athletic program. The original controversy has died. The most difficult changes have been made, although more revisions are needed."

SUMMARY OF GIRLS' ATHLETIC PROGRAM DEVELOPMENT
TITLE IX STUDY #3

1967-68	Intramural sports for girls in basketball, softball, volleyball, and track. Interscholastic competition for boys in football, cross-country, basketball, tennis, and track.
1968-69	Sports advisory committee established in response to recommendation of state association governing women's sports. Three interscholastic sports established for girls on recommendation of sports advisory committee: volleyball, gymnastics, and track. Four sports offered as intramurals: golf, tennis, basketball, cross-country. Intramural supervisors and interscholastic coaches all funded from intramural sources.
1970-71	Remaining four intramural sports of girls' program were set up as extramural sports requiring coaches. Additional funding for those coaches requested and approved. This represented a step closer to designation of the four sports as interscholastic.
1971-72	Basketball approved as interscholastic sport for girls. Coaching staff filed complaint with Human Rights Commission against school district. Athletic coordinator requested and received redesignation of girls' intramural funds as interscholastic funds.
1972-73	Sports seasons of girls' athletics equitable to those of boys'.
1973-74	School district reached conciliation with Human Rights Commission. Negotiation statement called for additional head coach positions for girls' athletics, which were established.
1975-76	Title IX self-evaluation conducted of senior high athletics.

NO. 4 TITLE IX STUDY

Study #4 describes the use of a citizen's advisory committee to implement Title IX in a metropolitan school district.

The advisory committee is an example of the superintendent's participatory management style. The superintendent encourages group participation in all aspects of his administration and accordingly utilized an active advisory committee of community members, instructors, and staff to evaluate and implement Title IX. This case study will examine the operation of the committee and the results of its activities.

The school district encompasses four high schools, eight junior highs, and 25 elementary schools. Over 20,000 students are enrolled.

INTRODUCTION

The advisory committee of this study was assigned responsibility for both affirmative action and Title IX because the superintendent viewed both as equal opportunity measures which are related in purpose. The advisory committee has developed in two years into a primary citizen group advising the administration. Its growth in influence is attributed by those in the district to the broad coverage of its subjects, Title IX and affirmative action, which impact nearly every aspect of education, and to the priority given nationwide to equal opportunities for men and women.

The advisory committee was established as part of the district's affirmative action program. The committee's goals and authority were:

1. Monitor and aid in revision of the program [1] for achievement of projected goals.
2. Work in cooperation with the Director of Administration and the Affirmative Action Compliance Officer through regular reports to determine the effectiveness of the (affirmative action/Title IX) program.
3. Draft and recommend grievance procedures consistent with this (affirmative action/Title IX) document.

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[1] *The district combines Title IX affirmative action goals into one program and refers to both as affirmative action.*

4. Establish subcommittees as needed.

5. Convey the value of affirmative action to the community.

The advisory committee initiated its own studies and made recommendations through the Title IX coordinator to the superintendent, if they involved district goals or policies, or to an administrative senate, if they involved administrative procedures. Goals were approved by the superintendent and adopted by the school board, and served to formally designate district action and identify support funding. Procedures were reviewed by a senate of principals and district staff. The senate met regularly to discuss any procedure affecting school operations, including those of Title IX and affirmative action.

The superintendent had a participative management style. He freely solicited staff and community involvement in the major aspects of administration. Committees were created when needed and dissolved when their need was fulfilled. The superintendent said, "I'm sure that many superintendents and managers have some fear to work with a group of people in the sensitive area that Title IX can be. I have confidence that if you present things to a group, that logic will come out... At the onset, we did have angry people who wanted to take the committee and run with it. You've got to avoid one-sided representation. You don't want just parents or just staff, but both working together."

The district's Title IX coordinator had a key role as the staff member working with the advisory committee. The coordinator served primarily as a liaison between the community and administrative staff. She advised and directed at the district level. Actual implementation within each building was the responsibility of the principal. The coordinator reported directly to the superintendent.

The Title IX coordinator position developed from a legal counsel position and the coordinator serves as both advocate of Title IX and defender of the institutions against charges of non-compliance. However, the coordinator did not feel there was conflict between her two roles. She explained, "I don't see defending the institution in conflict with trying to carry out Title IX. I think it would be a very large disservice to the institution to defend it in such a way as to refuse to carry out the regulations." The administration was supportive, but, the coordinator noted, funding was limited and as a result, "You are very creative with small amounts of money." She added, "My work load tends to pile up in other areas and sometimes I'm working very hard to cover Title IX as well as many other things." But there was latitude, she explained, for her to investigate and make recommendations: "I try to prevent problems but there are complaints. I investigate them and, if they're valid, I make the appropriate recommendations to the administration."

IMPLEMENTATION

Title IX activities began in 1975 with the publication of the federal regulations. At that time, Title IX responsibilities were assigned by the superintendent to an existing affirmative action committee and to the district's general counsel who acted as the affirmative action officer. The committee was originally established for the single purpose of developing an affirmative action plan, which was accomplished with the assistance of the counsel. The committee of twelve people then disbanded. However, provision for Title IX responsibilities was made by requiring, as one of the objectives of the affirmative action plan, the establishment of a permanent advisory committee on both affirmative action and Title IX. Following adoption of the plan by the school board in 1975, the counsel took action to fulfill the objectives by selecting the new committee's members. Many of the preceding affirmative action committee members continued to serve on the new joint-purpose committee. There were originally fifteen members, representative of faculty, administrative staff, and influential community people.

The first action of the new committee was to incorporate Title IX into the affirmative action plan by listing the major Title IX requirements as district goals. The school board adopted the revised plan in January 1976, and the advisory committee extended its responsibilities to include assistance in the elimination of all types of bias and discrimination in all operations of the district.

The first year of the committee's operation raised questions on the extent of the group's influence on final action. The superintendent interpreted its role as advisory, with implementation of the regulations left to his discretion and the decisions of his executive cabinet. The advisory committee wished a more direct influence, seeking full implementation of all its recommendations.

However, the district administration did not always agree with the advisory committee on the type of action desired. There was disagreement, for example, on the need to maintain certain data on faculty and staff applications, and there was also disagreement over whether the community should play a direct role in the affirmative action grievance procedures. The result of such contrasting views between the committee and the administration, said the coordinator, was that "they became quite frustrated with each other. Some members were quite discouraged over the committee's effectiveness. They felt that the administration did not support them."

In January 1976, the legal counsel who had acted as the Title IX coordinator left district employment. The administration hired a woman who also had a legal background, but whose responsibilities were defined to clearly include Title IX, affirmative action, and other civil rights compliance. The hiring was done without the involvement of the advisory committee and the members immediately expressed their concern. The Title IX coordinator was their primary contact with the district administration and they felt threatened by the action taken without their review. Some spoke of resigning their membership. "It was nearly the end of the committee," said the Title IX coordinator. But after the coordinator met with the committee members to discuss their concerns, key committee members agreed to remain on the committee to revitalize it.

The first action taken, with the assistance of the new coordinator, was to reorganize the advisory committee. In the two years of its existence, the committee had grown from twelve to forty members.[2] The subcommittees created were rivaling the aurhority of the entire advisory committee, attempting to take final action for the group and vying with each other for power. As a result, the advisory committee was disorganized and its influence with the administration had decreased. The superintendent described the situation as, "Many people had just lost patience. The committee was no longer operating." To provide central direction for the advisory group, the coordinator worked with the members to establish a steering committee for the advisory committee. The nine people of this central committee were to provide continuity and improved communications for the general membership and coordinate subcommittee work between meetings of the total membership. The steering committee was not a voting body exclusive of the general membership; the entire advisory committee remained the main decision-making body. Thus, the intiative and latitude of the many subcommittees was retained, but the direction and coordination of efforts was improved. The general membership met monthly and the steering committee met between those meetings. The subcommittees met as often as they determined necessary. The new organization resulted, said the coordinator, "in a tremendous improvement in action and results."

In October of 1976, the advisory committee's responsibilities were clarified by a statement issued by the superintendent. The statement was provided at the request of the committee. Some of the members continued to doubt the degree of importance given by the district administration to their activities, and asked for clarification of their role and purpose. In the memorandum, the superintendent described the composition and general duties of the advisory committee, and listed the specific charges to the committee to achieve the district's affirmative action/Title IX goals for the current year. The general responsibilities of the advisory committee were given as:

"Goal:

To cultivate an affirmative action program that guarantees complete realization of equal employment and educational opportunity and assures nondiscrimination within the school district. In order to attain this goal and meet the specific objectives under it, assistance from the Affirmative Action Advisory Committee is especially necessary in order to accomplish the following tasks:

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[2] *There was no size limitation to the committee's membership; all those who were interested could join. As of April 1978, the membership included 19 teachers, 6 counselors, 3 librarians, 2 aids, 1 clerical, 1 food service staff, 1 maintenance, 1 consultant, 1 elementary principal, 4 secondary assistant principals, 1 director of administration, 1 affirmative action/Title IX officer, 20 parents and concerned individuals, and 3 former students or employees.*

1. Attain greater awareness throughout the district administration and staff and the community of:

    a. the nature and effect of past discrimination against minority groups, women, the aged, and the handicapped;

    b. the nature and value of the contributions that other cultures have made and continue to make to American society; and

    c. the gains for all which result from recognizing the abilities and contributions of all people and all cultures and from experiencing truly equal opportunities.

2. Develop the skills among administrators, staff, and community members which will enable the district to put this increased awareness into practice.

3. Increase the numbers of women, minorities, and other previously disadvantaged persons in all levels of employment where they have been under-represented.

4. Establish effective means of communication throughout the district and the community."

The advisory committee was instrumental in the achievement of these tasks. The members chose to actively assist the district implementation, devoting personal time to conduct extensive studies, develop recommendations, and enact district-approved activities.

For example, the advisory committee's inservice training subcommittee acted upon the second task beginning in the 1975-76 school year. It developed awareness workshops and, upon approval of the district administration, offered them to faculty within the district. There were no funds assigned to the committee to conduct the training. Instead, the district provided release time and teacher substitutes for the committee members conducting the workshops, and release time for planning. The subcommittee members' arrangement of the workshops and the faculty's attendance was otherwise voluntary. The workshops provided college credit or training level credit, which were both applicable to pay scale evaluations, or professional credit, which did not apply to the pay scale but was required to keep staff expertise current.

However, the coordinator explained, it was realized that these activities were only a beginning and that the district needed to take more action. The inservice subcommittee, therefore, initiated receipt of a grant by the district from the area's educational service district office to train school district and community people in six school districts to conduct inservice workshops on sex discrimination. The goal, which was set by the district administration at the advisory committee's recommendation, was to develop training teams within the district to reduce the costs from use of consultants. As a result of the grant, a three-day workshop to train a cadre was held in the spring of 1977 for 40 representatives from the six school districts. The newly trained instructors then conducted workshops in their own districts according to the support provided by their district. Within the school district of this case study, two large-scale workshops, each two days in length, were presented in the spring of 1978 for three representatives from each school. In addition, the school district received a grant to implement Project Equality, an elementary level program promoting equal vocational opportunities, which provided for the training of five instructors to conduct awareness workshops.

The goal of the subcommittee was to develop training teams within the district, which was accomplished through the two special grants. As a result, the subcommittee's efforts diminished and it was combined with the community relations subcommittee.

The 1975-76 charge of the community relations subcommittee was to acquaint as many people as possible within the schools and community with the district's affirmative action program.[3] Subcommittee members made presentations to the district Parent-Faculty Organization Council, the Parent-Teacher-Student Association Council, individual faculty groups, and community organizations. To solicit additional presentations, letters were mailed to other clubs and organizations and followed up with phone calls to explain the purpose of the presentation. The subcommittee plans to expand these initial contacts to reach student groups, church organizations, and the news media.

Another subcommittee of the district affirmative action/Title IX advisory committee was responsible for eliminating bias and discrimination in curriculum materials. The subcommittee addressed this charge in 1975-76 through review of curricula and through in-service training of faculty.

The review of curricula included both: (1) district-originated materials, which the subcommittee analyzed on its own and made recommendations for revisions, and (2) new curriculum proposed for use within the district, which the subcommittee reviewed in conjunction with an existing district advisory council on subject matter. In review of materials, the subcommittee accomplished the following:

*Revision of summer math materials produced within the district.

*Designed checklists for evaluating bias in texts.

*Prompted consideration of curricula series which were less discriminating than the series currently used within the district.

*Corresponded with publishers on desire to see bias and discrimination eliminated from texts.

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[3] *Remember that the school district addresses all forms of discrimination in all educational areas in its affirmative action program, and that reference to the affirmative action program includes Title IX objectives.*

In addition to reviewing materials, the subcommittee conducted sessions for the faculty on identifying and correcting bias in curriculum. The year-end report of the subcommittee concluded with the statement, "A follow-up evaluation reveals the need to motivate many more teachers to acknowledge the existence of bias and take steps necessary to eliminate it."

As described, the advisory committee reported substantial achievements through its subcommittees in the first year of its reorganization. In concluding its 1975-76 report to the superintendent, the committee members stated that they "felt the sincerity of the administration in prioritizing affirmative action goals and in providing information and service. What was achieved...was a greater sense of school and community working together to achieve important human goals. It is this kind of effort and energy for understanding which must find its way from the Board Room into every classroom, faculty room, kitchen, shop, office, and playfield of the school district."

NO. 5

TITLE IX STUDY

Study #5 describes Title IX implementation by a community college.

Official Title IX compliance at the college is minimal. The college administration acknowledges that Title IX is not a priority and that few actions have been taken to investigate and eliminate sex discrimination.

However, there are other activities being conducted on-campus, primarily through the Women's Center, which are congruent with the spirit of Title IX although they are not considered by the administration as related to the objectives of the federal law. These activities were studied as well as the Title IX compliance efforts because it was found that on many higher education campuses, official Title IX compliance was limited but that commendable equal opportunity activities were being conducted outside of Title IX. Study of the development of the Women's Center therefore provided insight to the operation of programs which are not identified with Title IX, but which are parallel in purpose to the federal law.

The college is located in a metropolitan area and has an enrollment of approximately 9,000 students which constitute over 4,000 full-time equivalents (FTE's).

OFFICIAL ACTION

Official Title IX implementation began in 1974 when the personnel director, acting as Title IX coordinator, initiated self-evaluations by the two deans of their respective departments. The coordinator provided an evaluation outline and made the deans responsible for correcting any discovered inequities. He saw his role as insuring the institution's compliance to meet legal requirements, and not as a vociferous advocate of broad attitudinal and program change. "Title IX is only one small part of my responsibilities," he explained. "Compliance could be a full-time job but staffing and funding limitations do not permit that." He had the authority, reporting directly to the college president, to force change in the divisions, but he instead chose to delegate the responsibility for changes to the two deans. He explained that he delegated Title IX responsibilities because, "I have only limited time available to implement Title IX and the lower priority assigned by the college to Title IX means that other matters receive my attention first." Delegating the responsibility was also in accordance with the college's formal division of authority.

The college had a decentralized operation in which the top-level administration set the tone and direction of college operation, and the two divisions were responsible for the specific implementation of the administrative decisions. The units therefore held a degree of autonomity, and the Title IX coordinator preferred to seek their cooperation rather than order them to comply because he felt that an authoritarian stance would be resisted.

Formal compliance at the college was thus minimal and limited to the letter of the law. The Title IX coordinator reported action taken for the college but did not develop program changes. There was no formal program to implement Title IX. The coordinator explained, "We reviewed program areas that were in compliance and tried to correct them. No policies or timelines regarding Title IX were adopted. But yet," the coordinator added, " the president of the college is very supportive of equal opportunities. He is committed to the concept, as I am. But we were distressed at the governmental nit-picking. We felt that the regulations were so finite that we almost lost sight of the objective while trying to implement them. I'll say that of government regulations across the board, of Title IX, affirmative action, and 504 (Rehabilitation Act of 1973, Section 504)."

Of the areas covered by Title IX, athletics was the only area of major change because, the Title IX coordinator commented, "the inequities were so glaring." The student services director, who oversaw the athletic program, also explained that the athletic revision was strongly supported by citizens and staff. A school board member with a competitive sports background repeatedly voiced concern for improving athletic opportunities for women. The student services director added her support, as did her supervisor, the dean of student services. "Title IX was used," she explained, "as a convenient tool to see that action was taken. Its legal requirements gave additional weight to our requests for improvement."

Improvement of the athletic program began with the creation of an ad hoc committee on intercollegiate athletics and intramurals. The committee was organized in January 1977 at the request of the college board of trustees and was composed of students, faculty, administration, and a community representative. The committee was charged to:

(1) Identify and clarify the overlapping areas between intramural and intercollegiate programs;

(2) Assess the institutional climate relative to the level of program offerings in intercollegiate athletics;

(3) Assess current financial commitments to intercollegiate athletics from both the operating and special service budgets; and

(4) Assess the institutional implications of any change in current program levels.

The ad hoc committee used questionnaires and interviews to determine the status of the athletic program. For example, the general college population was surveyed to determine interest in intercollegiate sports and intramurals, and student athletes were questioned in particular to determine equipment, facilities, and other participation needs. Coaches and the director of athletics were interviewed for their perspectives of the athletic program and reporters of the three daily newspapers in the area of the college were asked for suggestions on improving coverage of college sports. In addition, a survey was distributed in one of the newspapers to determine community interest in athletic competition and participation in the college's intramural activities.

Based on its extensive research, the committee submitted recommendations for action to the college board of trustees in June 1977. The recommendations were adopted and a year later, the committee made the following status report on the recommendations.

(1) Policies and procedures were revised to:
   * Clarify recruiting expectations for each coach.
   * Improve news coverage of women's athletic competition.
   * Establish priorities for use of the athletic/intramural facilities for (1) instruction, (2) athletics, (3) intramurals, (4) city-organized recreation, and (5) general community use.

(2) Staffing was revised by:
   * Limiting coaching assignments to a maximum of two sports.
   * Clarifying workload assignments for all sports in coaching contracts.

(3) Facilities were improved by:
   * Increasing level of maintenance for internal and external facilities.
   * Jointly developing softball and soccer practice fields with the city parks department.
   * Requesting a women's training room as a capital budget priority.

(4) Funding revisions provided:
   * Gradual increase in expenditures for women's sports to achieve equal athletic opportunity for both sexes. The men's program was budgeted approximately $26,000 for 1975, and the same for 1976. The women's program was funded at $7,000 for 1975, and $9,500 in 1976. In 1979, the men's program budget will be maintained, with allowance for inflationary costs. The women's program budget is requested for $14,350.
   * Increased sports offerings for women from the addition of cross-country, track, and softball to the athletic program. The women's program formerly offered the three sports as intramurals. The existing intercollegiate sports were volleyball, tennis, and basketball. The men's program continued its intercollegiate sports of track, cross-country, basketball, baseball, soccer, tennis, and golf.

- Adequate uniforms for all intercollegiate sports.
- Equity in compensation for released time.
- Encouragement of individual sports to raise money in special projects by allowing 80% of the revenues to go directly to the revenue-raising sport.
- Allowance for inflationary costs to stabilize the athletic budget.

WOMEN'S CENTER

As discussed, the college administration considered Title IX a low priority. Citizens and lower level staff initiated the only major Title IX actions, in the area of athletics. Citizen and staff interest was also the impetus to the establishment of a women's center which, like the athletic program revision, was a move to improve educational opportunities.

The development of the Women's Center was studied to identify characteristics of equal opportunity offerings operated outside Title IX coordination. The Center was an accomplishment in the field of equal opportunity, although the Center was not created as a result of the college's Title IX efforts.

The Center was established in 1972, before the college's Title IX self-evaluation of 1974 and before the increased interest in Title IX in 1977 which resulted in the athletic program revisions. But the staff of the Women's Center felt their objectives to provide counseling, guidance, and coordination of women's programs could have been established as a part of Title IX implementation. The college administration, however, does not see any relationship between Title IX and the Women's Center. As described earlier, Title IX is seen only as a federal requirement, and the Women's Center is viewed as a unique women's program activity, with no relationship perceived between the purposes of the two. Indeed, Center staff believed that identification with Title IX would have been disadvantageous. A staff member commented, "If we had waited for the college to become interested in Title IX, we wouldn't have the Center." In 1972, the director of student services was visited by a woman student who explained her needs as a student returning to education after years as a homemaker. The director was personally responsive to the expressed needs and initiated regular meetings for returning women students. The students formed an association and continued to voice their need for counseling and other "gateway" services to aid them in the transition from community life to college training.

The student services director proposed to answer their needs through counseling provided by peer counselors who were students themselves and would serve an internship as part of their para-counseling training. The student services director selected this method because of her belief in student involvement to answer student needs, and because of reduced costs of using student assistance. She recognized that while the need was there, the funding was not, and explained that, "Approval for the program was easy to get because I asked only to increase FTE's (full-time equivalents) and not money. The administration was skeptical. We knew we had to prove ourselves before any money was allocated to us." At that time, external assistance was provided, at no cost to the college, through a federal grant to develop returning women programs in the state's community colleges. A part-time coordinator was provided who designed the program and prepared a grant proposal for $7,500. The grant was approved for 1972-73 and renewed the following two years, through 1974-75. The program was very successful and, as one of the first for returning women, resulted in publicity for the college.

Once the returning women program was underway, the Center answered a general need at the college for assessment of programs for women, arrangement of awareness workshops, and publicizing of the educational opportunities for women offered by the college. The Center provided services, but not instruction. It was operated as a separate unit, and not as a part of the instructional division. The student services director explained, "I felt strongly that it should not be a part of any particular division, but instead, should stay outside of them all and organize their efforts and implement through them." The purpose of this organization, she said, was to enhance coordination of women's activities across the campus and also to avoid funding competition with existing programs. If the Center was part of a particular unit, the other programs in that unit would feel threatened by the need to further divide the unit budget. It was best, she felt, to incorporate training opportunities into existing programs and maintain a separate role for the Center to coordinate and assist those efforts. But while the independent role of the Women's Center was considered its strength in offering services, it was its weakness in attaining permanent status within the college. "We are considered an add-on," the Center's coordinator explained, "and not really a permanent part of the college. Our reliance on external funding reflects this."

In 1975-76, the student services director requested $4,000 from the college to support the Center's part-time coordinator, supplementing the $12,500 of a new grant for the program. The approval of the request for college funds signaled to her that the program was gaining acceptance by the institution. Even this minimal amount, she explained, represented a commitment by the administration to the program. "The administration knows," she commented, "what it would lose in publicity and enrollments." Her concerns for continued funding were also allayed with the establishment of a continous external source of funding from the county. The funding was received by the college to provide assistance to displaced homemakers, which was a project compatible to the existing returning women program and offered as a supplement to the established program. "The college offers educational counseling services to the community," she explained, "and 75% of those people end up in courses at the college."

The student services director concluded, "People say we are doing a good job, but the Women's Center is not yet totally accepted. The administration and faculty judge programs by their priority in the college budget. For the Center, funded primarily through grants, it is difficult to prove hard dollar credibility with just continued existence on the fringe of the college organization."

NO. 6 TITLE IX STUDY

Title IX Study #6 describes the implementation of Title IX in a medium-sized (22,000 students), urban school district. This study focuses on the management skills and leadership capability of the district superintendent. It illustrates effective implementation as a result of committed support by a skilled administrator.

Administrative support for Title IX can range from passive acceptance of mandated responsibility, to active commitment to achieve the spirit of the law. The superintendent who is the focus of this study emphatically supported equal opportunity, believing it a necessary element of good education. He commented, "It has always bothered me that it took legislation to get us there (to equal opportunity)." The study also examines the superintendent's enthusiastic and effective management. A staff member described the superintendent as a "mover and a shaker", while another said, "He took a strong stand, but not so strong it got people's backs up. The change in attitude was gradual."

The school district encompases 4 high schools, 6 junior highs, and 33 elementary schools. In terms of operating cost-per-student, the district falls at about the midpoint in a grouping of medium and large-sized districts within the state.

INTRODUCTION

The superintendent, whose management skills and leadership capability are the focus of this study, was employed by the district in 1972. He served as assistant superintendent in two school districts in other states and, previous to that, had management responsibilities in the private sector. The prior superintendent held the position for fifteen years until retirement.

The employees of the school district, the school board and members of the community generally regard themselves as leaders in providing quality education among surrounding communities and local school districts. During the final few years of the administration of the prior superintendent, the community and school district employees became increasingly concerned about maintaining their leadership status in education. Some looked forward to the possible new directions and changes which a new superintendent could help bring about. Others were apprehensive about possible changes. Thus, the board members, school employees and community members were not in agreement as to the need for changes in the school district or the directions which these changes might take. The new superintendent faced mixed support from employees and citizens who were apprehensive about the new administration. It was within this uncertain environment that equal opportunity surfaced.

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IMPLEMENTATION

The need to have an affirmative action program and plan was one of the first issues to test the managerial skill and leadership capability of the new superintendent during his first year in office.

"Many of the board members did not want to talk about affirmative action," the superintendent explained. "They said we had so few minorities, and this thing with women just wasn't right for the community. I spent a lot of time getting them to see that we ought to have an affirmative action plan. This time was spent in a one-on-one situation with individual board members. I provided them with information in a non-threatening way and helped them to understand the issues. I didn't bring in advocate groups before the board because of the concern that they would be critical of individual board members, which would have alienated other members of the board."

The school board subsequently appointed a Citizen's Affirmative Action Committee which began the task of drafting affirmative action plans and policies.

With regard to Title IX, there was no systematic districtwide coordination activity until the appointment of a Title IX coordinator in 1975. Prior to this time, an athletic study committee had existed which consisted of coaches and physical education instructors. This committee was formed partially in response to a parent's concern that his athletically-oriented daughters were not being provided with athletic opportunities comparable to those being provided for the boys. The athletic study committee recommendations were presented to, and accepted by, the Board and the committee was dissolved. To implement the recommendations, the superintendent recommended that a committee be established to develop a long-range plan for implementation of the recommendations. The committee was established by the board in January 1976 and completed the plan in May 1976. This plan for athletic revision was incorporated into a district plan for implementation of Title IX in all program areas. The changes in athletics were, however, the first Title IX action for the district.

Several factors prompted the decision to begin the implementation of Title IX in the area of athletics. According to an administrative staff member, "First, there was pressure from the parent of the two athletically-gifted daughters and that was an important factor. Secondly, the superintendent was sensitive to providing equal opportunity to all youngsters, and improvement was needed in this area. In addition, we felt that because athletics was so visible, if we could make the change there, the rest of the school district would fall into line."

From the superintendent's point of view, the decision to change the district athletic program to provide more athletic opportunities for girls was not easy. "I had two or three real reluctant board members. In one-on-one conversations I would say, Hey, come on, don't fight me on this. You put your trust in me as your superintendent because what I am telling you is what we need to do. Let me move it. I'll bring you a report back. You'll see how your community reacts, how your kids feel and how your teachers feel." During board meetings, he continued, "Members would talk about their hangups and concerns. I would draw them out by saying, Hey, it takes a lot of different people to make up the world. I understand and appreciate what you are saying, but this is what's right. There is only one way and that's the right way. You have to push any biases aside and think about what's fair and give people the opportunity they are entitled to and deserve."

In addition to talking and working with board members, the superintendent also met with members of the local Rotary, Kiwanis and other clubs. "You can make a great mistake," he commented, "if you move too suddenly with a major presentation to these groups. You have to operate on a one-on-one fashion until key members of the group become comfortable with the idea." Advocate groups from the community were reached by the superintendent as well. He said to them, "Now look, my philosophy is I don't mind losing a battle but I don't want to lose the war. The war is Title IX policies and plans. If you are willing to place some trust in your superintendent and my colleagues, let's work together with the board on the issue. Let us, as a committee, get together a program that has bite-sized portions which people can swallow one or more at a time. Let's make sure we get some good press support for what we are trying to do. Finally, we have to be very careful to not make mistakes. If we do, the press will start slamming us and people will begin to choose up sides and we could lose the war."

The athletic planning committee had set the stage for the first Title IX action with its long-range plan completed in May 1976. But action had not yet been taken by the district. Instead, in June 1976, the superintendent appointed a Title IX advisory committee, comprised of citizens and students with ex officio representatives from the administrative staff and the school board, to oversee all areas covered by Title IX. The committee was assigned the responsibility to assist the schools in reviewing information compiled for the self-evaluation and preparing a comprehensive Title IX implementation plan for the district. The athletic program review and planning by previous advisory committees was incorporated in the responsibilities of this new committee. The superintendent explained how he worked with advisory committees: "Whenever we have an issue which is important, I assign the responsibility for the issue to a staff member who works with an advisory committee, if one is appointed. The board appoints the advisory committee. The board is comprised of elected representatives from the community and they should be the ones who select advisory committee members. After all, the schools belong to the community."

The superintendent continued, "I work with the board and help them set the tone or guidelines for the advisory committee to follow. I encourage advisory committees to develop alternative recommendations with differing levels of fiscal impact and, in some cases, different timetables so that the board can choose alternatives which are acceptable to them. It may be a little slower this way, but you will have a solid program each step of the way."

"For example," the superintendent explained, "in the early stages of implementing Title IX in athletics there was no way we could implement five new sports offerings for girls in one year. We didn't have the facilities and such resources as trained staff. In order to avoid conflict later on, the board and I worked out at the onset some parameters which would provide alternative levels of implementation over a two to three-year period. These people (advisory committee members) are citizens of the community and they understand fiscal impacts of budgets and special levies. If they had come in with one recommendation, and if the board had rejected it, what would have happened? Nothing would have gotten accomplished and the committee would be upset and some members would have quit."

"Another thing about citizens advisory committees," he added. "When the committee has completed its work, the committee and the superintendent go together to the board. I don't meet with the committee ahead of time. I feel that if the committee has followed the guidelines, then it's not necessary for me to meet with the committee, and further, committee members feel more responsible for their recommendations if they know the superintendent isn't going to change things before the recommendations go to the board. We go to the board together. If the superintendent and the committee don't go together, the superintendent can simply kill the committee's recommendations. It happens many times (in other districts) because many superintendents want this thing (Title IX) to go away."

The citizens advisory committee, based upon the tone set by the superintendent and the board, proceeded to prepare a comprehensive districtwide plan for Title IX implementation by the end of 1978. This document covered by grade level the major compliance areas of access to courses, career education, treatment of students, student marital/parental status, physical education, athletics, employment and counseling. The document also contained self-evaluation criteria for each of the areas, as well as a listing of the recommendations and their timelines for completion. The plan also contained a copy of the federal and state regulations, and state board and local board policies. This plan was subsequently adopted by the school board. A brief description of the major provisions of the adopted plan is included as Append A to this study.

The superintendent explained that the role of the Title IX citizens advisory committee after it completed the districtwide plan was "to monitor the situation. The Title IX coordinator helps monitor the situation but she can't make it (the plan) happen. She and the committee monitor the plan and work with me, and I work with the board. In this way the door is wide open all the way to the top for people to do their job."

In actual procedure, once the plan was introduced the Title IX citizens advisory committee formed a support data subcommittee to seek information from principals on the progress of Title IX in the individual schools, as well as to determine the areas of their concern regarding changes related to Title IX. Teams of three or four committee members visited six schools in the spring of 1977. During these visits, which were arranged by the Title IX coordinator, committee members talked to the building principals, administrative staff, the building contact persons for Title IX, and other staff. The committee members examined administrative support in each of the schools for Title IX objectives, as well as accomplishment of those objectives. The status of activities was reported as the visiting committee members found them. If the progess was not satisfactory, the schools were urged to comply. One committee member said, "They knew that we advised the superintendent and that he strongly endorsed the district Title IX plan. Our monitoring was, therefore, meaningful to us to keep track of the district's progress, as well as to the schools to help them keep up their initiative."

Reports of each visit were included in the advisory committee's annual report to the superintendent and the school board in order to provide them with an insight into how well the various schools were progressing in the implementation of the Title IX plan.

Comments from the annual reports indicated a lack of knowledge of Title IX objectives and resistence to these objectives by both students and staff. According to the superintendent, "Our biggest problem now is to retrain people to get them to see that Title IX is good education. We have people in our community who wonder why women can't be women and stand at the white picket fence with an apron on. I respond to that by saying that it is fine if women choose that role, but it is important for all youngsters to be free to choose their roles. The elimination of stereotyped roles from the education process is what is right for kids."

DESCRIPTION OF TITLE IX IMPLEMENTATION PLAN

TITLE IX STUDY # 6

Access to Courses

*Develop guidelines and procedures for assignment of students to classes.
*Modify language discrepancies in course catalogues.
*Review course content, activities and instructional methodologies tc remove language discrepancies.
*Review and modify language discrepancies in student handbooks.
*Review course descriptions, course content, scheduling processes and academic counseling for elimination of sex-bias in those classes where the male/female ratio has a 40% - 60% or 60% - 40% male/female disparity. (e.g., In order to partially overcome this problem, all seventh grade students are required to take home economics and shop courses.)
*Develop student placement criteria in work study programs which ensure equal access, equal compensation, and referral to work-study programs.

Physical Education

*Modify curriculum guides to remove language discrepancies.
*Provide equal access to all facilities and equipment used in physical education programs.
*All non-contact activities to be accessible to both males and females.
*Review and establish guidelines to ensure co-educational physical education activity.

Career Education

*Policies governing student assignment to courses and programs of career education are to be reviewed to eliminate language discrepancies.
*New policies are to be developed governing student assignment to courses to eliminate sex-bias.
*Course descriptions are to be modified to eliminate sex stereotyping.
*Curriculum guidelines are to be modified to eliminate sex stereotyping.
*Documents describing prerequisites are to be modified to eliminate sex-bias in content and practice.
*Eliminate sex-bias in all tests used to determine eligibility for enrollment.
*Eliminate sex-bias in forms used for student enrollment.
*Eliminate sex-bias in recruitment brochures, catalogues, and other materials in referring students to career vocational programs.

Counseling

*Eliminate sex-bias in language in all written materials describing counseling and guidance services provided to students.
*Revise counselor job descriptions, procedural guidelines and any other documents outlining the responsibilities of counselors to eliminate sex-bias or stereotyping.
*All tests, appraisal instruments or forms used in counseling students to be modified to eliminate sex-bias.
*All materials used by students or counselors in the counseling or guidance process, including career guidance, academic counseling and personal growth, to be modified to eliminate sex-bias and stereotyping.

*Establish a counseling contact reporting system to ensure equal treatment on the basis of sex.
*Establish an achievement test record keeping system to ensure equal treatment in tests administered to males and females.
*Establish a counseling/guidance referral record keeping system to ensure equal treatment in student referrals to these services.

Treatment of Students

*All student services, whether provided by the district or an outside organization or individual, must be provided on an equal basis to male and female students.
*All contractual and other agreements pertaining to the provision of aid, benefits or services to students by outside organizations or individuals must be modified to eliminate sex-bias.
*All medical, hospital, accident, life insurance plans or policies must be made available on an equal basis to male and female students.
*All policies, statements or contractual assistance regarding employment assistance to students, whether provided by the district, outside organization or individual, must be made available on an equal basis to male and female students.
*All materials describing student honors and awards and establishing criteria for student eligibility and selection must be made free of sex-bias.
*All descriptive materials relating to extra-curricular activities must be modified to eliminate sex-bias in policies governing extra-curricular activities.
*All materials describing any special services provided by the district (e.g. homebound instruction or institution's care for the mentally retarded) must be free of sex-bias and provided on a basis of equal access to male and female students.
*All guidelines on student use of facilities (e.g. shops, sewing and cooking facilities, music practice rooms, typing and office equipment rooms) must be free of sex-bias.
*Policies or statements governing descriptive punishment or penalties must be free of sex-bias.
*Eliminate sex-bias in prizes, and honor awards conferred upon students by the district or outside organization or individual. (Note: All students who receive athletic letters have the same qualifying standards and receive the same size of letter. Previous to Title IX, qualifying female athletes received a 4" high letter, while male athletes received a 6" high letter).
*Provide toilets, locker rooms and shower facilities on a comparable basis for each sex.

Student Marital or Parental Status

*Eliminate language disparities in policies, regulations and guidelines regarding the treatment of married or pregnant students.
*Eliminate language disparities in policies, regulations and guidelines to ensure equal access to student parental/marital education programs.
*Develop an education program for males who have marital/parental status comparable to the one for female students.
*Provide in student handbooks information regarding medical certification in circumstances of temporary disability and rules and regulations concerning marital or parental status.

Employment

*Job descriptions and statements of qualifications for both certificated and classified employees must be free of sex-bias.
*Salary schedules for certificated and classified employees must be free of sex-bias.
*Employment application forms must be free of sex-bias.
*Policies relating to granting of leaves of absence, including those for temporary disabilities and pregnancy and related conditions, must be non-discriminatory.
*Tests or instruments used in employee selection or placement must be non-discriminatory.
*All collective bargaining agreements must be non-discriminatory.
*A personnel record keeping system must be established to provide information on recruitment time in grade before promotions, extra-curricular assignments and related matters to insure that records are available to evaluate presence or non-presence of discrimination.

(Note: In order to overcome past discrimination, the district has initiated remedial action to place female teachers, who want to become administrators, into an administrative intern program. One year experience in this full-time position provides an experience advantage to move into administrative positions).

Athletics

*All listings and descriptive materials regarding athletic programs and offerings must be modified to eliminate language deficiencies.
*All policies relating to the operation or administration of athletic programs or teams must be modified to eliminate language deficiencies.
*All policies or materials relating to eligibility for participation in any component of the athletic program must be modified to eliminate sex-bias.
*Copies of all rules and bylaws of any interscholastic athletic association or league in which the district teams participate must be modified (to eliminate sex-bias).
*Athletic opportunities and events should be equalized on the basis of sex.

(Note: The district will provide the following athletic offerings for the 1977-78 school year. Previous years' offerings are shown as footnotes.)

1977-78 SENIOR HIGH SCHOOL ATHLETIC PROGRAM*

	Boys	Girls
Baseball		
Var.	x	-
J.V.	x	-
Basketball		
Var.	x	x
J.V.	x	x
Soph.	x	-
Cross Country	x	x
Football		
Var.	x	-
J.V.	x	-
Golf (Var.)	x	x
Gymnastics (Var.)	x	x
Softball		
Var.	-	x
J.V.	-	x
Swimming (Var.)	x	x
Tennis (Var.)	x	x
Track		
Var.	x	x
J.V.	x	x
Volleyball		
Var.	-	x
J.V.	-	x
Wrestling		
Var.	x	-
J.V.	x	-
Totals	16	13

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*The growth of the girls' athletic program was as follows:
1974-75 Offered varsity basketball, gymnastics, swimming, tennis, track, and volleyball.
1975-76 Added golf, cross-country, and junior varsity track.
1976-77 Added junior varsity basketball and volleyball.
1977-78 Added varsity and junior varsity softball.

1977-78 JUNIOR HIGH ATHLETIC PROGRAM*

	Boys	Girls
Baseball		
Var.	x	-
J.V.	x	-
Basketball		
Var.	x	x
J.V.	x	x
Football		
Var.	x	-
J.V.	x	-
Gymnastics		
Var.	-	x
J.V.	-	x
Softball		
Var.	-	x
J.V.	-	x
Swimming (Var.)	x	x
Track		
Var.	x	x
J.V.	x	x
Volleyball		
Var.	-	x
J.V.	-	x
Wrestling		
Var.	x	-
J.V.	x	-
Totals	11	11

*The growth of the girls' athletic program was as follows:
1974-75 Offered varsity gymnastics, swimming, track and volleyball.
1975-76 Added junior varsity gymnastics and track.
1976-77 Added varsity and junior varsity softball and basketball.
1977-78 Added junior varsity volleyball.

In addition to the steps taken toward equalization of athletic offerings the following additional steps have been taken.

*Prime practice time for boys and girls teams is alternated on a weekly basis.

*Priority for practice facilities was assigned to boys and girls teams in the on-going season over teams first starting their season.

*The number of athletic events (e.g., basketball games) are being equalized as full league play is established by all teams in the league.

*Additional training, locker room and weight lifting room is being added through remodeling. Until remodeling is completed, girls are using weight training equipment in the boys locker room.

*Rally squads and cheerleaders support both boys and girls teams.

*Prime time on game nights is scheduled so the girls play at home when the boys are away and vice versa.

*Two athletes of the year are chosen--one male, one female. This remedial action will continue until girls athletics becomes sufficiently established and recognized by students, parents and the community at which time the action will be eliminated.

*All publicity regarding athletic events will be provided on an equal basis for male and female athletic programs.

*All coaching, tutoring, training, medical and related services will be provided to athletes without sex-bias.

*Coaching pay has been equalized.

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APPENDIX I
METHODOLOGY

The purpose of this study is to determine the status of Title IX in Region X for the U.S. Department of Health, Education, and Welfare (DHEW) in order to identify both barriers to implementation and successful examples of compliance, and to recommend actions to DHEW to assist in local level implementation. The methodology employed included: (1) a review of background information regarding the enactment of Title IX, and an analysis of the formulation, regulations, and enforcement of Title IX, (2) a written survey of Title IX coordinators and school administrators, (3) on-site visits to study selected examples of Title IX implementation, and (4) a review of all data with an advisory panel. The performance of these tasks is described in more detail below.

REVIEW OF TITLE IX

Three tasks were performed in the review of Title IX. The first task was to examine the Title IX statute, its legislative history, regulations, and technical assistance materials to provide a basis for understanding the issues to be studied during the project.

The first task was accomplished by holding orientation meetings with the Region X project officer and representatives from the Office for Civil Rights/DHEW, Office of Special Concerns/DHEW, the National Coalition for Women and Girls in Education, the U.S. Commission on Civil Rights, the Resource Center on Sex Roles in Education, the Office of the Assistant Secretary for Education, and the Project on Equal Education Rights. In addition, individuals with experience in Title IX administration were consulted, and various written materials were reviewed. A narrative description of the legislative history of Title IX was prepared and serves as the first technical working paper of the project (see Appendix III).

A second task in the review of Title IX was to study the regulation formulation process in order to determine whether the spirit and intent of the federal act was met, and to determine whether implementation difficulties were a result of inadequacies in the formulation process. The analysis included a review of correspondence regarding the initial formulation of the draft regulations, as well as court rulings, amended regulations, and testimony at Congresssional hearings on the proposed regulations. This review is described narratively, and comprises the second technical working paper of the project (see Attachment III). Included within the technical working paper on the regulations analysis are recommendations for improving the DHEW regulation formulation process.

The information compiled in the first and second tasks was incorporated into a summary table which traces the development of each major policy area of Title IX from its legislative origins to issuance of preliminary and final regulations, and reflects the issuance of any policy interpretations by DHEW (see Appendix IV).

A third task in the review of Title IX was the review of state laws and regulations in Region X regarding sex discrimination in education and comparison of the coverage of the federal laws and regulations to state laws and regulations. This task was necessary to develop an awareness of all existing laws on sex discrimination before attempting to identify examples of compliance in the field and before developing the survey instruments used for data collection in the four states. The identification of the state laws and regulations is prepared in a narrative form and comprises the third technical working paper of the project (see Appendix III).

CONDUCT WRITTEN SURVEYS

Questionnaires were developed and distributed to both Title IX coordinators and administrative officials to aid in determining the status of Title IX implementation in the four states, as well as provide local educators with the opportunity to share their perceptions about Title IX implementation. It was recognized that Title IX coordinators were the source most likely to have detailed knowledge of the requirements, implementation problems, and factors assisting Title IX implementation, and of the status of compliance of the local education agency or institution of higher education. However, it was also recognized that the perspectives of administrative officials were important. To obtain an understanding of the overall administrative concerns, problems, and fiscal policies resulting from enactment of Title IX, administrators were also included in the survey.

Two different questionnaires were developed for the two distinct audiences. The Title IX Coordinator Questionnaire was comprehensive, while the Administrative Official Questionnaire addressed much broader perspectives of Title IX. Both questionnaires covered attitudinal factors, financial factors, the role of the Title IX coordinator, understanding of the regulations, and usefulness of assistance in implementation.[1] Some of the questions of the two questionnaires were identical to enable comparisons to be made between Title IX coordinator and administrator responses.

The questionnaires included both open-ended and fixed response questions. To obtain a more complete understanding of local perspectives, it was felt that it was important to provide the respondents with an opportunity for personal comment. The closed listings in various questions were therefore supplemented with the provision for open-ended responses, and other questions were completely open-ended to obtain voluntary comments from the respondents.

The questionnaires were field-tested and revised as appropriate. The approval of the federal Office of Management and Budget was obtained before the questionnaires were distributed.

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[1] The survey findings are discussed in Chapter IV.

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Determination of Survey Sample

The survey encompassed both public and private schools and institutions at the two educational levels of kindergarten through twelfth grade (K-12) and higher education. A sampling plan was developed for each of the two levels. The universe of the K-12 level included all school districts and private schools in the four states of Region X. The universe of the higher education level included all community colleges, public universities, and private institutions in the four states. Sample sizes were determined for each level by using a standard error formula[2], and the resulting number of recipients of the questionnaires[3] were selected utilizing the random "Nth" name technique from the universes.

The size of the universe for the K-12 level was 1,441 local education agencies. To assure a confidence factor of plus or minus five percent, 303 responses were required. The size of the universe for the higher education level was 117. To assure a confidence factor of plus or minus five percent, 90 responses were required. In order to receive this number of responses, 466 K-12 agencies were contacted and all 117 of the higher education institutions were contacted. This assumed a response rate of 65% for the K-12 level and 77% for the higher education level.

The actual response rates obtained were 47% for the K-12 level and 68% for the higher education level. The number of responses received from the K-12 level was 219, which is 84 short of the projected total. This shortage was caused by a lack of participation by private schools. Of the 151 private K-12 institutions which were contacted, only 13% responded. By comparison, of the 315 public school districts which were contacted, 64% responded.

Similarly, the returns from higher education were primarily from public institutions. Of the 38 private higher education institutions contacted, 47% responded. Of the 79 public institutions contacted, 78% responded.

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[2] Standard error formula: $$n = \frac{p(1-p)}{\frac{r^2}{z^2} + \frac{p(1-p)}{N}}$$

n = sample size
p = proportion of items in the universe which possess some characteristic or attribute
r = precision or sampling error (+5%)
z = standardized normal variable
N = number in universe

[3] All those of the selected samples received the Title IX Coordinator Questionnaire. If the administrator was someone other than the coordinator, an Administrative Official Questionnaire was distributed to that individual. If the Title IX coordinator was the top administrator, the institution received only the Title IX Coordinator Questionnaire.

The actual response rates for the survey were generally high: 47% for the K-12 level and 68% for the higher education level. Several actions were taken to assure these rates. First, every school district and institution in the two samples was contacted by phone to obtain the correct name and address of the Title IX coordinator and the administrative official. Second, a cover letter was included to explain the purpose and need for the data requested and to solicit the respondent's support for the survey. In addition, the cover letter carried a personal endorsement from a member of the project's advisory panel who was likely to be considered influential by the respondent. Third, several educational and other professional organizations were asked to insert notifications of the survey in their newsletters or notify local educators during their meetings. Fourth, all initial non-responses were followed up by phone call as many as three times when necessary.

Tabulation of Data

Each questionnaire distributed received a coded identification number so that responses would be confidential. The identification number indicated:

(1) The state (Oregon, Washington, Idaho, or Alaska)
(2) The enrollment size of the school district or institution (less than 300, 300 to 5999, 6000 to 11,999, 12,000 to 24,999, or 25,000 and up).
(3) The population characteristic of the school's location (metropolitan, suburban, urban, or rural)
(4) Whether the institution was public or private
(5) The grade level served (K-12, two-year or four-year institution)

The returned questionnaires were coded for computer-aided analysis using the Standard Statistical Package for the Social Sciences (SPSS). The Title IX Coordinator Questionnaires and the Administrative Official Questionnaires were analyzed separately. Using the SPSS program, the Title IX Coordinator Questionnaire responses were analyzed: (1) as a total, (2) by the four population characteristics, (3) by the two levels of K-12 and higher education, and (4) by the job title of the respondent. The responses compiled as a total served as the basis for comparison with three subset computer tabulations which were made in an attempt to identify all possible factors affecting the responses on Title IX implementation. The Administrative Offical Questionnaire was analyzed: (1) as a total, and (2) by the two levels of K-12 and higher education. Because of the relatively small number of returns (80), it was felt that further divisions of the data would not provide statistically valid data; therefore, the responses were not segregated by population characteristics.

The data from the written survey were reviewed in conjunction with the data obtained from the project's three other sources (on-site visits, technical papers, and the project's advisory panel) and organized into major findings which are discussed in Chapter IV.

CONDUCT SITE VISITS

While the written survey provided data on both objectives, on-site visits were also conducted to: (1) provide field observations to supplement the written survey data, (2) provide insight into the elements of successful implementation, and (3) prepare examples of implementation for the information of others.

SUMMARY of SURVEY ACTIVITY

TOTAL Questionnaires Mailed *

Title IX Coordinator Questionnaire	565
Administrative Official Questionnaire	242
Total	807

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* Represents duplication of schools contacted because a school could receive both the Title IX Coordinator and Administrative Official Questionnaires.

Unduplicated Number of Schools Receiving Questionnaires

K-12, Public	315
K-12, Private	151
Higher Education, Public	79
Higher Education, Private	38
Total	583

Unduplicated Number of Responses

	Completion	Declined Completion	Late Response
K-12, Public	200	6	3
K-12, Private	19	20	0
Higher Education, Public	62	1	3
Higher Education, Private	18	4	0

Projected Response

	Returns	Response Rate	Confidence Factor
K-12	303	65%	±5%
Higher Education	90	77%	±5%

Actual Response	Total Returns	Response Rate	Confidence Factor
K-12	219	47%	±6%
Higher Education	80	68%	±6.1%

observations to supplement the written survey data, (2) provide insight into the elements of successful implementation, and (3) prepare examples of implementation for the information of others.

The emphasis in the on-site reviews was on identification of successful approaches to Title IX implementation and the remedial steps which local agencies and higher education institutions took to meet Title IX objectives. It was determined that the documentation of the on-site visits would be narrative, chronological descriptions of Title IX activities in a certain successful program, or across the entire educational program, if appropriate. The site studies were to identify as many factors as possible which contributed to the successful implementation.

Three steps were taken to select which school districts, schools, and institutions would be visited. The first step was to identify, with the assistance of the project's advisory panel, criteria for selecting local education agencies. With these criteria in mind, the advisory panel then recommended potential agencies for study. The advisory panel's list of potential sites was supplemented by requesting suggestions from several women's groups, state government staff, and other individuals known to be active in Title IX efforts. Approximately 35 sites were identified for possible study, which included 22 school districts, eight two-year institutions, and five public and private four-year institutions.

The names of the sites were kept confidential. In discussions with the project's advisory panel and others, it was stated that confidentiality would increase the responsiveness of those interviewed. The interviewers wished to avoid any connotation of the site study as being a compliance audit so that shortcomings as well as successful actions could be fully discussed. It was felt that confidentiality would aid the interviewer in obtaining a complete discussion. For the purposes of the study, the name of the local education agency was not so important as the characteristics of implementation in that agency.

The second step in determining which sites were to be visited was to conduct oral preliminary interviews with the recommended 35 sites. This screening was accomplished by calling each of the school districts and institutions and discussing the Title IX achievements with the Title IX coordinator or others as appropriate. The preliminary interviews produced information on:

(1) Degree of success of Title IX efforts.
(2) The basic operation, design, and purpose of revised programs.
(3) Length of operation of the revised programs.
(4) Types of problems encountered.
(5) How the problems were resolved.
(6) Who was involved in revising or establishing the programs.
(7) What resources were used.
(8) What were the results and the degree of compliance indicated by those results.
(9) The potential of the program for replication.

The actual questions asked varied according to the subject area of the program. The interviews were conducted with as much flexibility as possible to encourage interviewees to discuss what they felt were important elements of the program actions.

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The third step in selecting the sites to be visited was to review the results of the preliminary interviews with the project's advisory panel. After reviewing the interview results, the panel selected programs at five school districts, and three two-year colleges for site visits. Five four-year institutions had been reviewed in the preliminary interviews, but the advisory panel did not find any of them to be potential study sites. It was, therefore, recommended that additional preliminary interviews be conducted to locate a higher education institution for study.

The fourth step was to perform additional oral interviews with selected higher education institutions and develop visitation schedules. Two four-year institutions were scheduled for study, a private and a public university. The private school subsequently declined to participate and the final schedule included nine site vists: five school districts, three community colleges, and a public university.

During the site visits, both written and verbal information was obtained. The written information included copies of the institution's self-evaluation, reports on Title IX achievement, correspondence, and other materials relating to the historical development of Title IX achievements. Those interviewed included administrators, the Title IX coordinator, staff, faculty, advisory committee members, and students. In each instance, the principle factors and individuals involved in the implementation were identified. The importance and role of those elements were then verified by obtaining as many perspectives as possible from a variety of individuals.

The results of the site visits were documented and reviewed with the project's advisory panel. Six were selected for development into narrative studies. The selection was based upon the suitability of the sites' programs to serve as examples of implementation. It was desired to represent in the studies as many educational levels, types of program activities, barriers and success factors as possible. It was observed during the site visits that the varying characteristics among local education agencies require individual design of the Title IX actions by those agencies. The Title IX studies, therefore, serve as examples of existing circumstances and not as models which provide a basis for a step-by-step replication by other institutions. The Title IX studies were, therefore, developed to assist this individual application by illustrating broad managerial, philosophical, and operational characteristics which could be held in common by many institutions. Additional information regarding the coverage and purpose of the Title IX studies is contained in the introduction to the studies which are presented in Chapter VI.

REVIEW WITH ADVISORY PANEL

A fourth element of the project's methodology was to consult with an advisory panel which included representatives from state education agency administrators, staff of the Central Office for Civil Rights, the Office of the DHEW Region X Director, special interest groups particularly concerned with the implementation of Title IX, technical assistance specialists, experts in the dissemination of educational methods and models, designated Title IX coordinators in local schools and institutions, and students. The thirteen-member panel provided representation from all four states of Region X, ethnic representation, and representation of both males and females. All of the panel members are knowledgeable about Title IX.

The advisory panel assisted with the development of the written survey instrument, identification of potential programs for site studies, final selection of programs for site visits, analysis of all collected data, and the formulation of findings, conclusions, and recommendations included in the final report.

Two of the advisory panel members served as special consultants to the project: Dr. Helen Remick, Director of Affirmative Action for Women, University of Washington; and Dr. Howard Coble, Superintendent of the Olympia School District, Washington State.

OMB No. 85S78004
Expires July 1, 1978

Code No. ____________

APPENDIX II

TITLE IX COORDINATOR QUESTIONNAIRE
(Confidential when completed)

The collection of this information is authorized by law (Section 416 of the General Education Provisions Act). While you are not required to respond, your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.

INSTRUCTIONS

Please print or type narrative responses.
A range of response is given for some questions.

For example

1. I think rain is pleasant in the:

	strongly agree		neither agree nor disagree		strongly disagree
a. Winter	1	[✓ 2]	3	4	5
b. Summer	1	2	3	4	[✓ 5]

Circle the number in the range that you feel is most appropriate. Please circle only one number in each line.

THANK YOU

SECTION A

11-12 _____ 1. If you have a specific job title other than Title IX Coordinator, what is it?

____

13-14 _____ 2. What specific responsibilities and duties do you have other than those as Title IX Coordinator?

____

____

____

15 _____ 3. How long have you been the Title IX Coordinator?

1. less than 6 months   2. 6 months to one year   3. more than one year

16 _____ 4. If you prepared recommendations concerning Title IX implementation to your district's, school's or institution's administration, were those recommendations generally :

1. followed   2. modified   3. not followed   5. have not prepared recommendations

17 _____ 5. If you are involved in any kind of anti-discrimination activities apart from your job, outside of school-related activities, how much time do you spend per week on those activities?

1. less than 1 hour   2. 2-4 hours   3. more than 4 hours   4. I am not involved in any outside anti-discrimination activities

18 _____ 6. Please rate what you feel is the level of priority assigned to achieving Title IX within your district, school or institution?

very high priority		moderate priority		very low priority
1	2	3	4	5

Comments: ____

____

____

7. Please answer "A" if you are employed in K-12, or "B" if you are employed in higher education.

A. K-12: Rate what you feel is the level of support for implementing Title IX at the:

		strong support		moderate support		no support at all
19_____	a. District admin. level	1	2	3	4	5
20_____	b. Building admin. level	1	2	3	4	5
21_____	c. Faculty level	1	2	3	4	5
22_____	d. Community level	1	2	3	4	5
23_____	e. Student level	1	2	3	4	5

Comment:____

____

____

B. Higher Education: Rate what you feel is the level of support for implementing Title IX at the:

		strong support		moderate support		no support at all
24_____	a. Central admin. level	1	2	3	4	5
25_____	b. Dept. admin. level	1	2	3	4	5
26_____	c. Faculty level	1	2	3	4	5
27_____	d. Community level	1	2	3	4	5
28_____	e. Student level	1	2	3	4	5

Comment:____

____

____

SECTION B

8. The following are some of the areas covered by Title IX. Please rate your level of understanding of what is specifically required by Title IX in each of the areas. If an area does not apply to your district, school, or institution (i.e., admissions in K-12), circle n/a.

		complete understanding		moderate understanding		no understanding at all	not applicable
29_____	a. Admissions/recruitment	1	2	3	4	5	n/a
30_____	b. Financial aid	1	2	3	4	5	n/a
31_____	c. Course offerings, excluding physical education	1	2	3	4	5	n/a
32_____	d. Physical education	1	2	3	4	5	n/a
33_____	e. Counseling	1	2	3	4	5	n/a
34_____	f. Athletics	1	2	3	4	5	n/a
35_____	g. Employment	1	2	3	4	5	n/a
36_____	h. Self-evaluation	1	2	3	4	5	n/a
37_____	i. Complaint/grievance procedures	1	2	3	4	5	n/a
38_____	j. Housing	1	2	3	4	5	n/a
39_____	k. Marital/parental status	1	2	3	4	5	n/a

40-41_____ 9. Given that the Title IX statute and regulations may be viewed as complex, which specific area(s), if any, pose the most difficulty in understanding what is necessary for compliance? Please explain specifically what you don't understand or would like a more specific interpretation of.

____

____

____

____

____

SECTION C

The following are short annotations of some of the requirements of Title IX. In the space provided under each requirement, please complete questions a, b, & c, as they pertain to that particular requirement.

10. Districts, schools or institutions shall maintain for three years descriptions of modifications made to policies and practices in response to their self-evaluation.

a. Do you feel your district, school, or institution is:

42____ 1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken: ______________________________

____

____

Steps that will be taken: ______________________________

____

____

11. Districts, schools and institutions shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints.

a. Do you feel your district, school or institution is:

43____ 1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken: ______________________________

____

____

Steps that will be taken: ______________________________

____

____

12. District, school or institution shall treat pregnancy and related factors the same as any other temporary disability in student admission, treatment of students and in all employment related matters.

44_____ a. Do you feel your district, school or institution is:

1. *more than meeting compliance* 2. *in compliance* 3. *partial compliance*
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken: __________________________

____

____

Steps that will be taken:

____

____

____

13. Districts, schools or institutions shall not provide any course, or carry out any program or activity separately on the basis of sex (excluding portions of classes at the elementary level dealing exclusively with human sexuality, and separation within PE class for contact sport activities).

45_____ a. Do you feel your district, school or institution is:

1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken: __________________________

____

____

Steps that will be taken: __________________________

____

____

14. Districts, schools or institutions shall not use different counseling materials or tests for students on the basis of sex, unless the use of different materials is shown to be essential to eliminate sex bias.

46 ____ a. Do you feel your district, school or institution is:

1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken:____________________________

____

____

Steps that will be taken:______________________________

____

____

15. Districts, schools or institutions shall develop and use procedures for selecting students for award of financial aid on a non-discriminatory basis, and assure that awards from sex restricted sources do not have an over-all discriminatory effect.

47 ____ a. Do you feel your district, school or institution is:

1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken:____________________________

____

____

Steps that will be taken: _____________________________

____

____

16. If a district, school or institution awards athletic scholarships, it must provide reasonable opportunities for such awards to both sexes (in proportion to the number of students of each sex participating in athletics).

48_____ a. Do you feel your district, school or institution is:

1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken: ______________________________

____

____

Steps that will be taken: ______________________________

____

____

17. In providing medical, hospital, accident, life insurance benefits, services, policies or plans to students, schools/districts and institutions shall not discriminate on the basis of sex.

49_____ a. Do you feel your district, school, or institution is:

1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. This requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area:

Steps that have been taken: ______________________________

____

____

Steps that will be taken: ______________________________

____

____

18. A district, school or institution which operates an athletic program shall provide equal opportunity for members of both sexes with respect to such factors as accommodation of the interests and abilities of both sexes; provision of equipment and supplies; scheduling of games and practices; travel and per diem allowance; opportunity to receive coaching and tutoring; assignment and compensation of coaches and tutors; locker rooms, practice and competitive facilities; medical and training facilities and services; housing and dining facilities and publicity.

0_____ a. Do you feel your district, school or institution is:

1. more than meeting compliance 2. in compliance 3. partial compliance
4. unsure 5. this requirement does not apply

b. What specific factors did you consider in making the above assessment?

____

____

____

c. What specific steps were taken and what steps will be taken in this area?

Steps that have been taken: ______________________________

____

____

Steps that will be taken: ______________________________

____

____

SECTION D

19. Do you believe that the steps that have been taken to alleviate sex discrimination and sex bias were taken within your district, school or institution primarily in response to: (circle only one)

1. Title IX regulations
2. Other federal law/regulations
3. State law/regulations
4. Local law/regulations
5. Women's rights movement
6. Community pressure
7. No steps were taken
8. Other motivation (name if possible) ________________

20. In your opinion, please rate the degree to which the following potential barriers to compliance have been overcome in your district, school or institution.

If a particular factor or barrier was not encountered, enter n/e; if it was present but not important in implementing Title IX, enter n/i.

	completely overcome		partially overcome		not overcome at all	not encountered	not important
a. Community resistance	1	2	3	4	5	n/e	n/i
b. The administration placing little or no emphasis on compliance	1	2	3	4	5	n/e	n/i
c. Apathy toward Title IX	1	2	3	4	5	n/e	n/i
d. Competition for priority given other federal laws and regulations	1	2	3	4	5	n/e	n/i
e. Misunderstanding of the objectives of Title IX requirements	1	2	3	4	5	n/e	n/i
f. Lack of understanding of the specific Title IX compliance requirements	1	2	3	4	5	n/e	n/i
g. Too much paperwork	1	2	3	4	5	n/e	n/i
h. Fiscal and financial problems	1	2	3	4	5	n/e	n/i
i. Insufficient staff to deal with	1	2	3	4	5	n/e	n/i
j. Persistance of sex-biased attitudes	1	2	3	4	5	n/e	n/i
k. The belief that the federal government probably will not take enforcement action	1	2	3	4	5	n/e	n/i

4_____ l. Please name any other barriers that you feel are significant and have not been overcome:

____

____

21. Please list, in order of importance, what you believe are the five most difficult barriers in achieving full compliance with Title IX in your district, school or institution. (The barriers you list may or may not be included in the factors listed in Question #20.)

65-66______ 1.

67-68______ 2.

69-70______ 3.

71-72______ 4.

73-74______ 5.

22. In working towards compliance with Title IX you may have used several outside sources of information or assistance.

Please rate the helpfulness of the information received from the following sources. If you did not contact a particular source circle n/c; if certain materials or services were not available circle n/a.

			extremely helpful		moderately helpful		not helpful at all	not contacted	not applicab
75______	a.	Verbal information obtained from state or federal agency staff and government-sponsored assistance centers	1	2	3	4	5	n/c	n/e
76______	b.	Written information or technical assistance materials	1	2	3	4	5	n/c	n/a
77______	c.	The official Title IX regulations	1	2	3	4	5	n/c	n/a
78______	d.	Information obtained from other Title IX coordinators	1	2	3	4	5	n/c	n/a
79______	e.	Information obtained from technical workshops	1	2	3	4	5	n/c	n/a
80______	f.	Information obtained from awareness workshops or training	1	2	3	4	5	n/c	n/a

11-12______ g. If there are other organizations or resources which have been helpful, please name them:

13______ 23. In working towards full compliance in your district, school or institution, do you feel that financial and fiscal factors are:

1. An extremely serious problem 2. A very serious problem 3. A major problem
4. Somewhat of a problem 5. A slight problem 6. Not a problem at all

14______ 24. Have any specific expenditures been made to come into compliance?

1. Yes 2. No

15-16______ If yes, please provide examples of the specific items:

25. Do you feel any additional specific expenditures are necessary to come into full compliance?

17_____ 1. Yes 2. No

18-19_____ If yes, please provide examples of the specific items:

____

____

____

20-21_____ Other comments regarding expenditures: ________________________

____

____

26. Assume for a minute that each of the following factors are present in your district, school or institution.

Please rate how important you feel each factor would be in contributing to the successful implementation of Title IX.

		extremely important		moderately important		not important at all
22_____	a. Workshops, training or other in-service activities	1	2	3	4	5
23_____	b. A supportive administration	1	2	3	4	5
24_____	c. An aware student body	1	2	3	4	5
25_____	d. An active, committed Title IX Coordinator	1	2	3	4	5
26_____	e. A supportive faculty	1	2	3	4	5
27_____	f. Wide dissemination of an anti-discrimination policy	1	2	3	4	5
28_____	g. The Title IX Coordinator being given leeway and authority for program and other changes	1	2	3	4	5
29_____	h. Creativity in modifying programs, rescheduling facilities, etc.	1	2	3	4	5
30_____	i. Involvement of parents-student-teacher organizations in the school(s)	1	2	3	4	5
31_____	j. General support for the concept of equal opportunity regardless of sex	1	2	3	4	5
32_____	k. Detailed interpretation and clarification of Title IX regulations by the federal government	1	2	3	4	5
33_____	l. Adequate fiscal and financial resources	1	2	3	4	5
34_____	m. Awareness that sex discrimination is a serious issue	1	2	3	4	5

35-36_____ n. Please name additional factors you feel are important: ________________________

____

____

27. Which of the factors in #26 do you believe are not present in your district, school or institution. Just print the letters of the factors you feel are absent, i.e., "c" or "j".

______	______	______	______	______	______	______	______	______
37	38	39	40	41	42	43	44	45

28. Do you have any additional comments concerning the implementation of Title IX in your district, school or institution?

46-47______

29. Do you have any suggestions concerning how compliance with Title IX might be encouraged, supported, or otherwise assisted?

48-49______

30. PLEASE COMPLETE THE FOLLOWING QUESTION IF YOU ARE EMPLOYED BY AN ELEMENTARY AND SECONDARY SCHOOL DISTRICT OR PRIVATE K-12 SCHOOL:

Describe the specific steps which have been taken to come into compliance with Title IX in the area of physical education for both the:

50-51______ 1. Elementary Level (grades K-6)

52-53______ 2. Secondary level (grades 7-12)

- -

OTHER COMMENTS:

OMB No. 85S78004
Expires July 1, 1978

Code No. ____________

APPENDIX II

ADMINISTRATIVE OFFICIAL QUESTIONNAIRE
(Confidential when completed)

The collection of this information is authorized by law (Section 416 of the General Education Provisions Act). While you are not required to respond, your cooperation is needed to make the results of this survey comprehensive, accurate, and timely.

INSTRUCTIONS

Please print or type narrative responses.
A range of response is given for some questions.

For example

1. I think rain is pleasant in the:

	strongly agree		neither agree nor disagree		strongly disagree
a. Winter	1	[✓ 2]	3	4	5
b. Summer	1	2	3	4	[✓ 5]

Circle the number in the range that you feel is most appropriate. Please circle only one number in each line.

THANK YOU

11-12______ 1. What do you think are the most important benefits, if any, to be derived from Title IX?

____

____

____

13-14______ 2. What do you think are the negative consequences, if any, which will result from Title IX?

____

____

____

3. The following are some of the areas covered by Title IX. Please rate your level of understanding of what is specifically required by Title IX in each of the areas.

If the area does not apply to your district, school, or institution (i.e. admissions in K-12), please circle n/a.

		complete understanding		moderate understanding		no understanding at all	not applicable
15______	a. Admissions/recruitment	1	2	3	4	5	n/a
16______	b. Financial aid	1	2	3	4	5	n/a
17______	c. Course offerings, excluding physical education	1	2	3	4	5	n/a
18______	d. Physical education	1	2	3	4	5	n/a
19______	e. Counseling	1	2	3	4	5	n/a
20______	f. Athletics	1	2	3	4	5	n/a
21______	g. Employment	1	2	3	4	5	n/a
22______	h. Self-evaluation	1	2	3	4	5	n/a
23______	i. Complaint/grievance procedures	1	2	3	4	5	n/a
24______	j. Housing	1	2	3	4	5	n/a
25______	k. Marital/parental status	1	2	3	4	5	n/a

4. In your opinion, please rate the degree to which the following potential barriers to compliance have been overcome in your district, school or institution.

If a particular factor or barrier was not encountered, enter n/e; if it was present but not important in implementing Title IX, enter n/i.

		completely overcome		partially overcome		not overcome at all	not encountered	not important
26_____	a. Community resistance	1	2	3	4	5	n/e	n/i
27_____	b. The administration placing little or no emphasis on compliance	1	2	3	4	5	n/e	n/i
28_____	c. Apathy toward Title IX	1	2	3	4	5	n/e	n/i
29_____	d. Competition for priority given other federal laws and regulations	1	2	3	4	5	n/e	n/i
30_____	e. Misunderstanding of the objectives of Title IX requirements	1	2	3	4	5	n/e	n/i
31_____	f. Lack of understanding of the specific Title IX compliance requirements	1	2	3	4	5	n/e	n/i
32_____	g. Too much paperwork	1	2	3	4	5	n/e	n/i
33_____	h. Fiscal and financial problems	1	2	3	4	5	n/e	n/i
34_____	i. Insufficient staff to deal with the issue	1	2	3	4	5	n/e	n/i
35_____	j. Persistance of sex-biased attitudes	1	2	3	4	5	n/e	n/i
36_____	k. The belief that the federal government probably will not take enforcement action	1	2	3	4	5	n/e	n/i

37-38_____ l. Name any other barriers that you feel are significant and have not been overcome:

____

____

____

5. Please list, in order of importance, what you believe are the five most difficult barriers to full compliance with Title IX in your district, school or institution. (The barriers you list may or may not be included in the factors listed in Question #4.)

39-40_____ 1.
41-42_____ 2.
43-44_____ 3.
45-46_____ 4.
47-48_____ 5.

6. How useful do you feel policy statements and guidance from the federal government have been in helping to implement Title IX?

49_____ 1. extremely useful 2. very useful 3. moderately useful 4. slightly useful
5. not useful at all

50-51_____ Comments: ________________________________

____

____

7. In working towards full compliance in your district, school, or institution, do you feel that financial and fiscal factors are:

52______ 1. not a problem at all 2. a slight problem 3. somewhat of a problem 4. a major problem 5. a very serious problem 6. an extremely serious problem

8. Have any specific expenditures been made to come into compliance?

53______ 1. Yes 2. No

54-55______ If yes, please provide examples of the specific items: ______________________

9. Do you feel any additional specific expenditures are necessary to come into full compliance?

56______ 1. Yes 2. No

57-58______ If yes, please provide examples of the specific items: ______________________

59-60______ Other comments regarding expenditures: ______________________

10. Assume for a minute that each of the following factors are present in your district, school or institution. Rate how important you feel each factor would be in contributing to the successful implementation of Title IX.

			extremely important		moderately important		not important at all
61______	a.	Workshops, training or other in-service activities	1	2	3	4	5
62______	b.	A supportive administration	1	2	3	4	5
63______	c.	An aware student body	1	2	3	4	5
64______	d.	An active, committed Title IX Coordinator	1	2	3	4	5
65______	e.	A supportive faculty	1	2	3	4	5
66______	f.	Wide dissemination of an anti-discrimination policy	1	2	3	4	5
67______	g.	The Title IX Coordinator being given leeway and authority for program and other changes	1	2	3	4	5
68______	h.	Creativity in modifying programs, rescheduling facilities, etc.	1	2	3	4	5
69______	i.	Involvement of parents-student-teacher organizations in the school	1	2	3	4	5
70______	j.	General support for the concept of equal opportunity regardless of sex	1	2	3	4	5
71______	k.	Detailed interpretation and clarification of Title IX regulations by the federal government	1	2	3	4	5
72______	l.	Adequate fiscal and financial resources	1	2	3	4	5
73______	m.	Awareness that sex discrimination is a serious issue	1	2	3	4	5

74-75______ n. Please name additional factors you feel are important: ______________________

11. Which of the factors in #10 do you believe are not present in your district, school or institution? Just print the letters of the factors you feel are absent, i.e., "c" or "j".

____ ____ ____ ____ ____ ____ ____ ____ ____

11 12 13 14 15 16 17 18 19

12. Has your district, school or institution been investigated by HEW for any form of discrimination in any area?

20 ____ 1. Yes 2. No 3. Unsure

21-22 ____ If yes, what kind? ____

23-24 ____ If yes, what was the result? ____

13. Have any complaints been filed with regard to Title IX within your district, school or institution?

25 ____ 1. Yes 2. No 3. Unsure

26-27 ____ If yes, what kind? ____

28-29 ____ If yes, what was the result? ____

14. Do you have any additional comments concerning the implementation of Title IX in your district, school or institution?

30-31 ____

15. Do you have any suggestions concerning how compliance with Title IX might be encouraged, supported, or otherwise assisted?

32-33 ____

16. THE FOLLOWING QUESTIONS ARE ADDRESSED TO SPECIFIC TYPES OF DISTRICTS, SCHOOLS AND INSTITUTIONS. PLEASE ANSWER THE QUESTIONS WHICH APPLY TO YOUR ORGANIZATIONAL CATEGORY.

A. ELEMENTARY AND SECONDARY EDUCATION (K-12)

To what extent is your district or school dependent on local levies for school funding?

34 ____
1. less than 25% of total operating budget
2. up to 50% of total operating budget
3. over 50% of total operating budget

Are your per pupil expenditures:

35 ____
1. higher than the statewide average
2. approximately the same as the statewide average
3. lower than the statewide average

B. VOCATIONAL/TECHNICAL SCHOOLS

What is the mix between academic and vocational/technical programs?

36 ____
1. more emphasis on academic
2. approximately balanced between academic and vocational
3. more emphasis on vocational

APPENDIX III

TITLE IX REGULATION ANALYSIS

INTRODUCTION

The first task of the study called for a review and analysis of the Title IX statute, its legislative history, the implementing regulations and DHEW policies regarding compliance and enforcement.

The second task requested a study of the process DHEW used in formulating the draft regulations, the public response to the draft regulations and amendments made for final publication.

The third task required a review of existing state sex discrimination legislation as compared with Title IX.

Background and Objectives

There continues to be extensive controversy over the Title IX statute and regulations. This controversy, as well as difficulty in drafting generally applicable yet comprehensive compliance policies and criteria, have significantly contributed to the lack of enforcement of Title IX.

Congress and many interest groups have been highly critical over the lengthy period of time between the passage of the act and the adoption of final regulations. There is continued disagreement over whether the regulations fully meet the spirit and intent of the act. From yet another perspective, there has been considerable disagreement over the specifics of what constitutes sex discrimination. This disagreement has led to amendments of the act by Congress and extensive litigation over other elements of the regulations. While it was beyond the scope of the project to attempt to present and/or resolve all these arguments and issues, documentation was made of the history, the legal status and the application of Title IX to date. This documentation, in turn, has been utilized as the basis for recommending changes in the DHEW regulation formulation process.

The objectives of the first three tasks of the project are then:

1) To draw on existing research and documentation in forming a technical framework for field study of the Title IX implementation in the states of Alaska, Washington, Oregon and Idaho.

2) To identify those areas for which policy and compliance criteria have been sufficiently developed, as well as areas where interpretation is uncertain.

3) To document the changes made from the preliminary to the final regulations and accompanying rationale as a basis for evaluating the regulation formulation process used for Title IX.

4) To review other factors having direct impact on Title IX, e.g., pertinent case law, other federal laws/regulations and state law relating to sex discrimination.

LEGISLATIVE HISTORY OF TITLE IX

In the 1960's, Congress enacted the first legislation prohibiting discrimination on the basis of sex in employment. The Equal Pay Act was enacted in 1963, as an amendment to the Fair Labor Standards Act [1], and in 1964, Congress passed Title VII of the Civil Rights Act of 1964. Although these statutes prohibited sex discrimination in employment, public educational institutions were exempted from coverage in both statutes.

During the sixties, much of the significant legislation enacted dealt primarily with race discrimination. For example, Title IX of the Civil Rights Act of 1964 prohibited federal agencies from providing funds to those who discriminate on the basis of race, color, or national origin.

In 1965, President Johnson issued Executive Order 11246 [2] which prohibited discrimination in employment on the basis of race, color, religion, and national origin by persons receiving federal contracts of over $10,000. However, the original order was amended in 1967 by Executive Order 11375, to include discrimination based on sex.

The courts were also active in addressing the issue of race discrimination during this period. Many court decisions made in the wake of the Brown decision of 1954 [3], served to further combat race discrimination. The courts did not, however, take a similar stance during this period in the area of sex discrimination. It was not until 1971, in Reed v. Reed [4] that Supreme Court found a sex-based classification to be unconstitutional.

By 1970, the need to enact legislation to more adequately address sex discrimination in education was becoming apparent to Congress. In 1970, Representative Edith Green held the first hearings on sex discrimination in education. In those hearings, the testimony documented the seriousness and extent of sex discrimination in the educational system. The legislation that evolved into the present Title IX statute was first considered in 1971 as an amendment to include sex discrimination in Title VI of the Civil Rights act of 1964. In order to avoid hostile amendments to Title VI, however, a new statute was written embodying the words of Title VI but using the word "sex" in place of the word "race."[5]

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[1] 29 USC 206 (d)

[2] The Executive Order is not a law, but does require contractors to follow a series of rules and regulations to be eligible for receipt and maintenance of a federal contract.

[3] 347 U.S. 483 (1954) Brown I

[4] U.S. 71 92S. Ct. 251 (1971)

[5] Hearing before the House Subcommittee on Equal Opportunities of the Committee on Education and Labor on House Congressional Resolution 330, July 14, 1975.

This statute, House Resolution 7248, was reported onto the floor of the House by the Committee on Education and Labor in October, 1971. In the area of admissions, it covered all educational organizations, except substantially single sex institutions. An amendment was added, known as the Erlenborn amendment [6], which substituted an exemption for all private undergraduate admissions, in lieu of the exemption for single sex institutions. The reason expressed for this exemption was to avoid federal intrusion into private educational organizations. The Erlenborn amendment also allowed for a transition period for schools changing from single sex to coed admissions.

An amendment known as the Dellenback amendment [7], in addition to defining an educational institution, added a provision which allowed for consideration of "administratively separate units" within an institution as distinct entities under the law. This amendment provided that, for example, the admissions policy of one school within a university would not necessarily reflect on another school within the same university. HR 7248 was further amended to permit separate living facilities and was passed by the House in November, 1971. [8]

In the Senate, an amendment to the Senate version of the Higher Education Act of 1971, was introduced in August, 1971. In the area of admissions, this legislation would have only covered graduate and public undergraduate education. There was a debate concerning the coverage of military institutions. Apparently because there was question as to the appropriateness of considering coverage of military schools in that forum, the resolution was rejected as non-germane on a point of order. In September, Senate Bill 2552, an identical measure to amend Title XX of the U.S. Code,was introduced. This measure died in committee. [9]

In February, 1972, a resolution entitled Title X, an amendment to the Higher Education Act of 1971, (S659) was introduced and passed in the Senate. It provided for admissions coverage of vocational, professional public undergraduate, and graduate institutions. Senator Bentsen added a provision to exempt all traditionally single sex public undergraduate admissions. The reason he expressed for this provision was that such schools were few in number, and they, like private undergraduate institutions, should be allowed to maintain their traditional character.

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[6] 117 Congressional Record 39,248-61 (1971)

[7] 117 Congressional Record 39,262-63 (1971)

[8] 118 Congressional Record 2747

[9] Also during 1971 Congressional Session, the Public Health Service Act was introduced and passed, which prohibits discrimination on the basis of sex in the admission and treatment of students, but covers only health-related programs.

The resolution also included an exemption for military schools. Like the House version, it allowed for a transition period from single sex to coed admissions.

House Resolution 7248 and Senate Bill 659 then went to conference committee. The legislation reported out of the conference committee became Public Law 93-318, Title IX of the Educational Amendments of 1972. Title IX contained the same provisions as proposed by the House, including the amendments.

In May of 1972, Title IX of the Education Amendments of 1972 was introduced on the floor of the Senate, and passed on May 24. On June 8, 1972, it was passed by the House and signed into law on June 23, 1972, to become effective July 1, 1972. Concurrent with the passage of Title IX, Congress amended the Equal Pay Act and extended Title VII coverage to include educational institutions.

This was the first comprehensive legislation to prohibit discrimination based on sex in educational programs and activities receiving federal financial assistance. The language of Title IX as passed, remained very similar to the language of Title VI of the Civil Rights Act of 1964. This similarity is very important, because some of the legal interpretation and precedence set by Title IV has been used as a basis for the legal interpretation of Title IX. However, a significant difference in the two acts is that the Title IX regulations cover employment, whereas Title VI does not.

The Title IX statute itself is relatively brief. It contains seven sections, numbered consecutively from 901-907. Each section is further subdivided.

Section 901 (a) is a general statement of the purpose of the act. It states that "no person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...". The language of this section differs from that of Title VI in that the word "education" is added, limiting the scope of the act to programs which are of an educational character. Subsections 901 a (1) through (5), as follows, detail the various exemptions from the portion of the act dealing specifically with student admissions.

Subsection (1) states that admissions in vocational, professional and graduate schools and public undergraduate schools were covered. The admissions policies of private undergraduate schools then, by omission, were not covered.

Subsection (2) allows for a six year adjustment period for those schools coverting from admissions of one sex to admission of both sexes and grants a one-year grace period with regard to admissions in all schools.

Thus, currently co-educational schools whose admissions were covered by Title IX had until June 23, 1973 to come into compliance.

Subsection (3) exempts the admissions of religiously controlled educational institutions if meeting Title IX requirements would be inconsistent with the tenets of the religion.

Subsection (4) exempts from coverage all schools and institutions whose primary purpose is the training of individuals for the military services or merchant marine.

Subsection (5) exempts the admissions policies of any public undergraduate institutions which have traditionally since their establishment been limited to a single sex.

Section 901-b clarifies that Title IX does not require educational institutions to grant preferential treatment because of an unbalanced distribution of students by sex as compared to the ratio of males/females in the surrounding community. This has been interpreted to mean that a statistical imbalance alone would not necessarily require giving preference to the less represented sex. This Section also provided however, that statistical evidence showing such an imbalance may be considered in any Title IX hearing.

Section C defines an educational institution and states that where an entity covered under Title IX is composed of more than one school, college, or department which are administratively separate, each unit will be considered as a separate educational organization.

Section 902 basically provides the mechanism for monitoring compliance, and, if necessary, for terminating federal funds. With the exception of the inclusion of the word "education", the wording is the same as the wording of the parallel section of Title VI.

Generally Section 902 authorizes and directs each Federal department or agency offering financial assistance to any education program to effectuate Title IX through its own rules and regulations. It also requires Presidential approval of rules, regulations and orders pursuant to Title IX and provides the authority for any federal department or agency involved to enforce Title IX. This section further states that termination or refusal to grant Federal assistance because of a finding of discrimination should be limited in its effect to the particular program in which the discrimination was found. Before federal financial assistance can be terminated, the Government must notify the organization of its failure to comply and give the opportunity for voluntary compliance. If appropriate actions are not taken, a 30 day grace period before termination of funds is stipulated to begin after the agency files a report with the appropriate congressional committees.

Section 903, similar in wording to Title IV, provides for judicial review of the enforcement decisions.

Section 904, added by Representative Burton, prohibits discrimination against the blind.

Section 905 exempts from Title IX coverage programs of Federal financial assistance provided through a contract of insurance or guaranty.

Section 906 amends sections of the Civil Rights Act of 1964 and the Fair Labor Standards Act of 1938 to include discrimination based on sex.

Section 907 clarifies that separate housing facilities based on sex are not prohibited.

Title IX has been amended twice since its passage. In 1974, several proposed amendments to Title IX were introduced. One amendment proposed in the Senate would have exempted any potential or actual revenue producing intercollegiate athletic activity from Title IX. This amendment was not passed. However, as a compromise, special legislation was enacted requiring the Secretary of DHEW to publish regulations for athletics with "reasonable provisions considering the nature of particular sports." [10]

Also, in 1974, Congress amended Title IX [11] to remove from its coverage the membership practices of certain social fraternities and sororities who are exempt from taxation and whose membership is primarily students in higher education. This amendment also included the YMCA, YWCA, Girl Scouts, Boy Scouts, Camp Fire Girls and certain voluntary youth service organizations.

Two years later, as a part of the Education Amendments of 1976, Congress further amended Title IX to exempt any program or activity related to Boys State, Boys Nation, Girls State or Girls Nation; and father-son, mother-daughter activities to a certain extent. It also stated that financial assistance awarded by higher education institutions to winners of beauty pageants would not be covered when awards are based on personal appearance, poise, and talent and the contest is sex-restricted. [12] Other amendments have been introduced, ranging from the effective repeal of Title IX to proposed changes in DHEW enforcement powers, scope and areas of coverage, as well as definitional changes, but these amendments have not been enacted.

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[10] Public Law 93-38, Title VIII 844, 88 Stat. 612 (August 21, 1974)

[11] Public Law 93-568, 88 Stat. 1862

[12] Public Law 94-482, Title IV S412 (a) 90 Stat. 2234

TITLE IX REGULATION ANALYSIS

This section of the report contains a more detailed analysis of each regulation. This analysis is based on Title IX and related civil rights caselaw, OCR policy statements and other existing research and documentation. It described the substantive changes in the regulations from preliminaty to final form, supported by limited legal and policy analysis.

It should be hoted, however, that this analysis is not exhaustive, and does not attempt to present comprehensive legal background for the regulations. It does include a sampling of some of the relevant case law. Caution must be exercised in assuming that the reasoning used in court decisions regarding Title VI and other civil rights mandates will necessarily be upheld when applied to Title IX cases. However, because much of hte language of Title VI and Title IX is similar, citing these cases is informative. But, it is recognized that the full development of Title IX case law, allowing for definitive interpretation of each regulation, will not likely be completed for some time.

These working papers were largely drawn from materials supplied to the Contractor by Dr. Norma Raffel, former chairperson of the Women's Equity Action League (WEAL). In addition, much of the information in court rulings was obtained from unpublished documents prepared by Mr. Charles E. Guerrier for The Resource Center on Sex Roles in Education, for the Council of Chief State School Officers. Other resource documents include the Congressional Record and various reports and papers on Title IX.

Subpart A - Introduction, Purpose, Coverage and Definitions [13]

The introductory portion of the final regulations generally defines what is covered by Title IX, provides definitions of terms used in the regulations, and sets forth the basic administrative requirements of the regulation. Most of the changes in the preliminary regulations in this section were made to clarify, rather than alter, the requirements.

In Subpart A, 86.1, a change between the preliminary and final regulations was made to include all educational programs and activities offered by an educational institution, whether or not they receive federal financial assistance. An example of this broad coverage is found in the court's ruling in Piascik v. Cleveland Museum of Art 426F, Supp 799 (ND Ohio 1976). In that case, the court ruled that the employment practices of the museum were covered under Title IX because the museum received federal financial assistance for an educational program. This judgement was made despite the fact that the employment issue in question concerned a security guard position, not directly related to the educational program.[14]

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[13] Headings have been inserted for readability and do not necessarily coincide with the headings used in the regulations.

Section 86.2 provides definitions of the terms used in the regulations. It was not significantly altered from the preliminary to final regulations, except that certain statutory notations were changed to reflect Congressional amendments to other statutes.

Section 86.3 (a) and (b) set forth the provisions for remedial and affirmative action. The regulation states that if the Office for Civil Rights (OCR) finds a violation of Title IX, the receipient may be required to take remedial action to overcome the effects of the discrimination. The affirmative action provision of the regulation states that in the absence of a finding of discrimination, a recipient may take voluntary affirmative action to overcome discrimination.

The preliminary regulation was also expanded to state that if recipients are covered by Executive Order 11246 [15], they are not excused, by virtue of Title IX, from the Executive Order's requirement to take affirmative action.

The regulation can be interpreted to mean that both affirmative and remedial actions can be required to address existing or past discrimination and its effects. However, remedial action can be mandated by OCR, while affirmative action is voluntary, taken to correct discrimination before OCR finds a violation of Title IX.

In some instances, however, affirmative action taken to overcome the effects of limited participation has been labeled as reverse discrimination. Examples in the area of racial preference are the case of Defunis v. Odegaard 416 U.S. 320, 94S. Ct. 1704 (1974), and the Bakke[16] case. The U.S. Supreme Court ruling in the Bakke case indicates that affirmative action in the area of admissions cannot be based upon the use of quotas or preference. It did not rule out taking affirmative action to remove the barriers to equal opportunity, nor did it preclude taking race (sex) into consideration in developing admissions policies.

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[14] The issue of whether, or to what extent, Title IX covers employment practices is still under litigation. (See Sections 86.51 - .61 for specific comments regarding Seattle University DHEW and Romeo Community Schools DHEW).

[15] EO 11246 covers employment only.

[16] Bakke v. Regents of the University of California, 132 Cal. Rptr. 680, 553 Pac. 2 d 1132 (1976). Cert. granted, February 22, 1977.

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Self-Evaluation

The self-evaluation provision included in 86.3 (c), could be one of the most important provisions of the entire regulation. It requires recipients to evaluate their own policies and practices relating to nearly every aspect of their educational programs, activities, and employment. More importantly, it requires an evaluation of the effects or results of those policies/practices and a description of actions taken to overcome discriminatory practices. The inclusion of this provision is based on the premise that while a policy or practice may appear on its face to be without any discriminatory intent, it can still have an adverse impact on one or the other sex and thus be discriminatory.[17]

While self-evaluation was not specifically mentioned in the preliminary regulations, similar provisions are contained in affirmative action programs under other federal regulations and can be useful tools for organizations to initiate their own remedies. Not only can recipients devise solutions to situations unique to their institutions without federal intervention, they are also allowed to discover and correct any unintentional acts of discrimination by their own volition.

The basic principles of the self-evaluation regulation are that the recipient will evaluate policies and practices concerning admission of students, access to programs and activities, treatment of students and employment. The recipient must then modify those policies/practices which do not meet the requirements of the regulation and take appropriate steps to eliminate the effects of discrimination.

Recipients were required to complete a self-evaluation by July 21, 1976. The self-evaluation is an internal document. A file of the description of the corrective sites taken to eliminate discrimination is required to be maintained for three years, subject to OCR review.

Assurances

Section 86.4 requires recipients to provide assurance of compliance as a condition of approval for federal assistance. The final regulation added that a recipient must also commit to take necessary action to eliminate existing discrimination and the effects of past discrimination to make the assurance satisfactory. The requirement of such assurance is consistent with the ruling in *Gardner v. State of Alabama, Department Pensions and Security*, 385.F. 2d 804 (5th Circuit 1967), which declared that Title VI assurances (comparable to Title IX assurances) to be a valid qualification for federal assistance.

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[17] As expressed in *Briggs v. Duke Power Company* 401 U.S. 424, 91 S Ct. 849 (1971)

Effect of Other Requirements and Employment Opportunities

Title IX's effect on other federal, state, local and private rules and regulations is provided for in Section 86.6. In essence, the regulation makes clear that the requirements of Title IX are not abrogated by any other law, regulation, or rule. These provisions remained unchanged from the preliminary regulations.

There has been confusion on the part of recipients as to the coverage of Title IX, Title VII, E.O. 11246, and the Equal Pay Act of 1963. These non-discrimination laws differ in the remedies offered and in some aspects of their coverage. Because grievance procedures are provided for in the Title IX regulations, and not in others, institutions are given the opportunity to address sex discrimination without federal intervention. Thus, even though areas of Title IX may be covered in other employment discrimination laws, the number of levels at which such discrimination can be addressed are increased by Title IX. A percieved problem remains however for recipients, in that practices which are prohibited under one act may be allowed under another. An aggrieved person may lodge simultaneous and independent claims under a variety of federal and state laws as well as the Constitution. It follows that the same complaint can be ruled on differently depending on the legal basis under which it is pursued. It is clear then, that institutions must meet the requirements not only of Title IX, but of all civil rights mandates.

Another area which remains unaltered from the preliminary regulation is the directive contained in 86.7 that apparently limited employment opportunities for one sex cannot be used as an excuse to discriminate.

Title XI Coordinator and Grievance Procedure

While the preliminary regulation required the designation of an employee to investigate complaints and coordinate compliance, the final regulation added a requirement to adopt and publish a grievance procedure. This provision was included in the final regulation as 86.8, to allow recipients an initial attempt to resolve grievances without federal intervention. It may be noted that there is no requirement to use the procedure once adopted.

The section requiring that the name, office address and phone number of the designated employee be provided to all students and employees, was also added in the final regulation to assure that any person believing that discrimination has occurred will know who to contact for assistance.

Notification

The preliminary regulation required the recipient to notify applicants, students, employees, counselors and other interested parties of its policy of non-discrimination. The final regulation added that non-sex discrimination policy notices must also be sent to parents of students, unions and professional organizations, to assure that all interested parties are specifically informed.

The basic compliance principles of this portion of the regulation are notification of non-sex discrimination to all pre-school, elementary and secondary non-vocational schools and any other organization conducting educational program/activities, all employment applicants, all students and their parents, all employees, all sources of referral for employment applicants, and all unions or professional organizations having collective bargaining agreements.

Vocational schools must issue non-sex discrimination notices to all applicants and sources of applicant referral for admission, stating that the policy on educational programs/activities extend to employment practices and policies as well. For vocational schools, the statement must also include a statement that non-sex discrimination extends to its admission policies/practices, and that any questions relating to the policy may be referred to the designated Title IX coordinator or to OCR.

Such notification must initially be sent to the local newspapers, any newspaper and magazines operated by the recipient or student or alumni group, and any written communication distributed annually to students and employees. Notices must be published in any announcements, bulletins, catalog or application form, including student and faculty handbooks and manuals. Such publications must not depict or suggest, in text or illustration, a situation in which students or employees are treated differently because of sex. The publications mentioned are required to be distributed without sex discrimination. Recipients are also required to inform employment, admission (if vocational school) and recruitment representatives, including counselors or student advisors and personnel officers of the non-sex discrimination policy and require such representatives to adhere to the policy.

All of the steps required in 86.9 for the dissemination of policy must be carried out on a continuing basis.

Subpart B - Coverage

Subpart B of the regulations generally outline what is, and is not, covered by the admissions portion of Title IX. There are three basic exemptions provided for in 86.12, 86.13, and 86.14. These exemptions are for the most part restatements of exemptions found in the original Title IX statute and subsequent statutory amendments.

Exemptions for Student Admissions/Membership in Certain Organizations

The first exemption, 86.12, exempts from Title IX applicability any religiously controlled institution to the extent that the tenets of the religion are inconsistent with Title IX. The final regulation stipulates

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that to claim this exemption, the highest ranking official of the institution is required to submit a written statement identifying the specific tenets of the religion which conflict with Title IX.

Section 86.13 states that Title IX does not apply to schools or training for the U.S. military service or Merchant Marines.

Neither the original statute nor the preliminary regulation specified any exemptions of organizations with single sex membership as provided for in Section 86.14. However, as previously mentioned, Congress voted to amend Title IX coverage (the Bayh amendment) to allow single sex fraternities and "voluntary youth service organizations" with school ties, to keep their exclusive membership policies.

Under the Bayh amendment, several other private organizations requested and received exempt status, including the American Legion Boys and Girls State programs, if academic credit is not given for participation. Boys-only Key Clubs sponsored by the Kiwanis International are also exempt.

With respect to fraternal organizations, however, both the Bayh amendment and regulation limit the exemption of fraternities and sororities of a social nature. Membership policies of business and professional fraternities and sororities may be subject to coverage if they themselves receive federal monies in connection with an education program or activity.

The basic principles which have been considered in meeting this requirement are that elementary and secondary school recipients may sponsor, furnish facilities or support activities of specifically named organizations that have single sex membership. Other organizations may also qualify, if they meet all three requirements of being exempt from Section 501 (a) of the Internal Revenue Code of 1954, have a membership traditionally limited to one sex, and have a membership limited principally to persons under 19 years of age.

Elementary and secondary schools may not sponsor or support single sex sororities and fraternities, whether social or honorary, single-sex honor societies, vocational, professional or business clubs. Pre-school, elementary or secondary schools may not provide significant assistance to other organizations, agencies or persons, which discriminate in providing aid, benefits or services to students or employees.

Section 86.15 restates the admissions coverage stated in the Title IX statute itself. In summary, a one year adjustment period was allowed, thus exempting the admissions policies of all schools until June 24, 1973. Administratively separate units would be considered as distinct institutions. It goes on to state that the admissions policies of vocational, professional, graduate and public undergraduate schools are covered. The admissions policies of traditionally single-sex and private undergraduate schools are not covered.

Section 86.16 and 86.17 fulfilled the Congressional stipulation to allow a more gradual transition from single-sex to coed admissions over a period of six years if a plan was submitted to the U.S. Commisioner of Education. No school had a plan approved by June 1973, so these sections no longer apply.

Subpart C - Admissions/Recruitment

General

Section 86.21 is a general prohibition against discrimination in admissions, which details what a recipient cannot do with regard to the admission of students. The preliminary regulation was not substantially changed in the final regulation, other than to add a provision stating that if discriminatory tests are used, the institution must show that non-discriminatory tests are not available.

Prohibitions

In determining admission policy or criteria, the recipient cannot give preference to one sex over another by ranking applicants, apply numerical limitations on the number of proportion of persons of either sex, or apply different admissions criteria on the basis of sex. The legal basis for these provisions is illustrated in the case of Berkelman v. San Francisco Unified School District 501 F 2 d 1264 (9th Cir. 1974). In that case, using a higher grade point average requirement for girls, even if designed to result in equal distribution of boys and girls, was found unconstitutional.

Tests or any other admissions criteria having a disproportionately adverse effect cannot be used, unless alternatives which do not have adverse effects are unavailable.

No rule concerning the actual or potential parental, family or marital status of a student or applicant can be used which treats persons differently on the basis of sex.

Recipients cannot discriminate against or exclude any person on the basis of pregnancy or related conditions, nor follow any rule which so discriminates. Pre-admission inquiries of the marital status of an applicant are also prohibited. Thus, application forms cannot ask for marital status nor the designation of Miss or Mrs. A recent DHEW policy interpretation stated that requests for information on other names formerly used are acceptable if asked of both sexes (this applies to employers as well).[18]

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[18] Federal Register Volume 43, No. 84 - Monday, May 1, 1978.

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Section 86.22 prohibits giving preference to applicants for admission from a particular school or other entity which limits participation of students on the basis of sex. A potential problem is the application of this provision to the policy of giving preference to veterans, as the overwhelming majority of veterans are men. A state court has found such preference to be unconstitutional in the area of public employment, in the case of Anthony v. Massachusetts, 415 F. Supp. 485 (b. Mass 1976). That case is being appealed to the Supreme Court.

The regulation prohibits discrimination on the basis of sex in recruitment and admissions in Section 86.23. This provision is based on the assumption that a sex-fair admissions policy will be ineffective if the recruitment processes are sex-biased.

The basic prohibitions of Section 86.23 are that recipients cannot recruit primarily or exclusively at educational institutions which enroll students of predominately one sex, if it has the effect of discrimination. Further, if enrollment was previously limited to one sex, the recipients may be required to take additional remedial steps to recruit individuals of the previously excluded sex, or the recipients may take such steps on their own volition. The final regulation is not substantially different from the preliminary regulation. A wording change from "comparable efforts" to "shall not discriminate" clarified the intent of the regulation.

Subpart D - Prohibition of Sex Discrimination in Education Programs

Subpart D of the regulation describes what is required by the recipient to make the treatment of enrolled students sex-fair. Thus while certain schools and organizations may be exempted from admissions requirements, once students are admitted, they must not be subjected to sex discrimination.

Prohibitions

The first section of Subpart D, 86.31, contains a general prohibitory statement on sex discrimination as well as a listing of specific prohibitions. The general prohibitory statement differs from previous similar provisions in that it details what is to be considered "educational program or activity". This section provides that any academic, extracurricular, research occupational training or other education program which receives the benefits (direct or indirect) of federal assistance is covered by Subpart D. The specific prohibitions in providing any aid, benefit or service include: different treatment to satisfy requirements for eligibility; providing different treatment to satisfy requirements for eligibility, providing different or in a different manner any aid, benefit or service; denying any aid, benefit or service; applying different rules or the same rules differently; discriminating in rules of appearance; applying different rules on tuition and residency; aiding or perpetuating discrimination through assistance to an outside organization, or otherwise limiting equal opportunity and rights.

The preliminary regulation did not contain the provisions for either tuition and residency nor assistance to outside organizations. The provision concerning tuition and residency would deal with a situation where a married women is required to assume her husband's residency, and thus may lose her eligibility for in-state tuition. Such was the case in Samuel v. University Pittsburgh, 375 F. Supp. 1119 (W.D. Pa. 1974) which concluded that such rules were unconstitutional.

The provision in this portion of the regulation dealing with personal appearance was contested in court. The case, Trent v. Perritt, 391 F. Supp. 171 (S.D. Miss. 1975) challenged a school's grooming regulation which limited the hair length of males but not that of females. The judge found that differing rules for males and females was not, in this case, a violation of Title IX.

Outside Organizations

The regulation, in prohibiting aid to outside organizations which discriminate, also requires the recipient to develop and implement a procedure to assure itself that assistance to the organization does not result in discrimination toward any student on the basis of sex. This is designed to prompt schools to go beyond the appearance of equal opportunity in order to determine that the outside entity actually does not violate Title IX regulations. If a recipient finds that the outside organization is violating Title IX, the recipient must discontinue assistance.

Section 86.31 also prohibits assistance by a recipient to entities involved in sex-restricted foreign scholarships/fellowships providing for study abroad, unless similar opportunities are available for both sexes. The wording changes from the preliminary regulation removed the original complete exemption for foreign scholarships, and replaced it with a provision that a recipient must offer opportunities for both sexes, in order to award such a scholarship.

Housing and Facilities

Section 86.32 of the regulations stipulates that in providing housing, schools may not apply different rules, fees, or offer services or benefits on the basis of sex. Title IX allows separate housing for males and females, but it must be comparable quality, quantity and cost. Such requirements apply not only to housing provided directly by the school, (e.g. dormitories) but also to any housing listed by the school or any housing agency which is assisted by the school.

The proposed regulation required the recipient to assure itself that housing is provided in a sex-fair manner. Public comments in response to this requirement questioned whether it would necessitate routine site visits of housing. The final regulation stipulates only that reasonable steps be taken to assure that overall, comparable housing is available to males and females.

There was litigation in the area of housing which supports this regulation. In one such case, Mollere v. Southeastern Louisiana College 304 F. Supp. 826 (E.D. La. 1969,) the court found it unconstitutional to only require unmarried females under 21 to live in campus housing.

Section 86.33 basically allows for separate locker rooms, toilets, and showers for males and females. The facilities must be comparable, however.

Course Offerings

The first portion of Section 86.34 is an overall statement prohibiting schools from requiring or refusing participation in any course solely on the basis of sex.

The regulation goes on to specify what separation is allowed for privacy and safety and what separation is not allowed. A recent DHEW policy interpretation has allowed for students with religion objections to certain coeducational courses to be excused or provided a sex segregated class.[19]

The requirement that physical education classes must be in compliance by a specified date was not mentioned in the preliminary regulation, but included in the final regulation. This provision was added in response to public comments to allow time for necessary adjustments.

The final regulation states that the recipient must demonstrate that it is progressing toward the elimination of segregated physical education classes. The final regulation also clarified a controversial aspect of the preliminary regulation by allowing sex separate teams in contact sports within coeducational physical education classes. Further, while grouping and testing by ability is allowed, abilities must be assessed by objective standards that do not have an adverse effect.

This is consistent with a parallel finding in the area of race discrimination in the case of Lemon v. Bossier Parish School Board 444F. 2d 1400 (5th Circuit 1971). In that case, the court found a proposed desegregation plan unacceptable which would have assigned students on the basis of test scores. In disapproving the plan, the court held that testing would result in a reinstitution of racial segregation. The rationale underlying this prohibition is that past discrimination may be maintained through the use of certain testing standards even if they are not obviously discriminatory.

The preliminary regulation allowed for separate sessions in human sexuality for males and females. In response to public comments, the final regulation only allows separation of the portion of classes dealing with human sexuality, rather than an entire course. This allowance only applies to elementary and secondary schools.

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[19] Federal Register Volume 43, No. 84, Monday, May 1, 1978.

Also, in response to public comment, the final regulation allows for choruses or singing groups which require a certain vocal range. DHEW has interpreted this to mean that schools may have separate male and female singing groups, as long as there is equal opportunity provided.

Section 86.35 prohibits schools from denying, on the basis of sex, participation in or access to vocational schools which the school operates. In the second portion of this section, the regulation requires that if the recipient operates a single sex school (non-vocational) it must offer comparable facilities for the excluded sex. "Comparable", as defined in this section, is equal availability of each course, service, and facility and use of equal admissions criteria.

Counseling

While the preliminary regulation for counseling prohibited the use of discriminatory tests and materials, the final regulation, 86.36, prohibits discrimination in counseling itself. Based on the comments received, the final regulation was more specific about the use of appraisal and counseling materials to prevent discrimination. Since assumptions about sex roles have historically limited educational and career opportunities of both sexes, student counseling is considered an important area of influence in overcoming sex stereotyping. The final regulation, by being more comprehensive and specific, emphasizes the effect of counseling.

The final regulation stated that different counseling materials based on sex may be used only if such materials are shown to be essential in eliminating sex discrimination or bias. Internal procedures are required for ensuring that counseling materials are free from sex bias. Where the composition of a class is disproportionately male or female, the recipient must assure itself that it is not the result of sex biased counseling or use of disciminatory counseling or appraisal materials. Counseling services may not differentiate on the basis of sex in career or course guidance offering, or in tests or materials used for appraising or evaluating scores.

Financial and Other Student Aid

Title IX's impact on the provision of financial aid to students is covered in Section 86.37. A general statement prohibits discrimination in amount or type of assistance, use of criteria, or assistance or aid to an entity which discriminates. The final regulation added a prohibition against sex discrimination in providing financial aid on the basis of marital or parental status.

In response to public comment, an exception was made for certain legal instruments which require that awards be sex-restricted. The final regulation provided that in such cases, schools may administer or assist in the award only if the overall effect does not discriminate.

The regulation goes on to require the development and use of procedures to assure that students are selected for aid on a basis other than sex, or availability of sex-restricted funds. Further, once selected,no student may be denied award of financial aid because of the absence of aid designated for that student's sex.

An example of this type of selection process is included in the DHEW memorandum accompanying the regulations. In the example, students are ranked objectively by need, grade average or other non-discriminatory criteria. Students are then matched with funds, sex-restricted or not.

If available funding runs out for a given sex and the student next on the list is of that sex, awards must then be made without regard to sex. If this cannot be accomplished, the school must locate additional funding, or cease to award funds.

However, this example seems to be in partial conflict with the regulation. Ceasing to award funds as in the above example would seem to violate the provision that, once selected, a student cannot be denied an award because of the absence of aid designated for that student's sex. A preferable solution would be to locate additional funding.

The conditions under which athletic scholarships can be awarded is also covered in Section 86.37. The basic principle of this portion of the regulation is that if a school offers athletic scholarships, it must offer equal opportunity in proportion to the number of each sex participating. Separate scholarships for male or female teams are allowed within this overall framework. The preliminary regulation stipulated that separate financial aid for males and females was allowable only if they were members of separate teams.

The final regulation with regard to employment assistance to students, 86.38, requires the recipient to assure itself that employment is offered without discrimination before assisting a student in finding employment. In addition to any assistance in making outside employment available to students, the employment of students by the recipient must be non-discriminatory.

Health/Insurance

Section 86.39 states that if the recipient offers medical, hospital, accident or life insurance, it cannot discriminate on the basis of sex. Further, the treatment of students in this area should not differ from the non-discriminatory treatment of employees provided for in Subpart E (86.56). The regulation permits offering a service which is used by a different proportion of one sex, however. The final regulation added the requirement that full health coverage must include gynecological care.

Marital/Parental Status

The first portion of Section 86.40 of the regulation prohibits the application of different rules to males and females concerning their actual

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or potential marital or parental status. The second portion deals specifically with pregnant students. It provides that pregnant students may not be discriminated against in any aspect of the educational program, including compulsary participation in or exclusion from any classes or other curricular activities. Special programs, schools and classes may be operated for pregnant girls if attendance is at the request of the girl. If for medical reasons, it is necessary for the girl to be homebound, the same services must be provided to her as to any other student homebound for medical reasons. Further, if a required course or activity cannot be engaged in by a pregnant girl for medical reasons, she is exempt as any other student with medical reasons would be exempt. In essence, pregnancy must be treated like any other temporary disability in any medical or hospital plan. If a school's medical plan does not treat pregnancy in such a manner, the school cannot participate.

DHEW has interpreted this requirement quite strictly. For example, a school using a health insurance policy having a $50.00 deductible for pregnancy, with no deductible for other temporary disabilities, would be in violation of Title IX. (Project on Status, AAC Oct. 1976). Should there be no services or provisions for temporarily disabled students, pregnancy is justification for a leave of absence for a reasonable period of time, with reinstatement to the same status as when the student left. If any separate programs are offered pregnant students, they must be comparable to the regular programs.

Section 86.40 of the final regulation clarified, but did not change, the content of the preliminary regulation. In response to comments, the section requiring physician's certification was modified to require one only if such certifications are required of all other students with physical or emotional conditions. The final regulation also allowed for the operation of a portion of a program or activity separately for pregnant students if it is comparable and participation is voluntary.

The court has generally upheld the principle that pregnant students should not be penalized or prevented from receiving education services. In Perry v. Granada Municipal Separate School District, 300 F. Supp 748 (N.B. Miss. 1969), the court declared that an unmarried pregnant student could not be excluded from school. It may be noted that the regulation could be interpreted to allow a rule which equally penalizes both male and female students because of marital or parental status. Such rules have been found to be unconstitutional in several cases, however. For example, in one case, a school board had a policy of penalizing unmarried boys who had contributed to the pregnancy of a girl, as well as prohibiting married students from participating in extra-curricular activities. When contested in Davis v. Meek 344 F. Supp. 298 (N.D. Ohio 1972), the court held that such a policy was unconstitutional. Such rules were also found unconstitutional in Romans v. Crenshaw, 354 F. Supp. 868 (S.D. Texas 1972) and Hallon v. Mathis Independent School District, 358 F. Supp 1269 (S.D. Texas 1973).

The portion of the regulation requiring that separate programs for students be comparable to that of non-pregnant students is consistent with the court's conclusion in Houston v. Prosser 361 F. Supp. 295 (N.B. Ga. 1973). In that case, it was found unconstitutional to exclude married students and parents from regular classes and requiring them to pay tuition for evening classes if they wished to attend school.

Athletics

Section 86.41 of the regulation deals with athletics. Many public comments were received concerning this aspect of Title IX, and several changes were made to the preliminary regulation. Many of the changes were to clarify, however, rather than substantially alter. The first section of this regulation requires that in athletics, schools may not exclude students from participation, deny students the benefits of, segregate students (with certain exceptions), or otherwise discriminate against students on the basis of sex. The final regulation was expanded, in response to public comment, to define athletics as any interscholastic, intercollegiate, club, or intramural athletic activity.

The regulation allows separate teams for males and females, but only if team members are chosen on the basis of competitive skill, or if the sport is a contact sport. The preliminary regulation did not contain the provision for contact sports. The final regulation, also in response to public comment, contained a requirement that all students must be able to compete on a non-contact sport team, if there are no teams offered for that student's sex and athletic opportunities for that sex have been limited in the past.

The preliminary regulation for the third portion of Section 86.41 stated only that schools must offer equal opportunity, and that while unequal expenditures would not be a violation, failure to provide necessary funds would be a factor.

In response to public comments, the final regulation dealt more specifically with the factors which would be considered in providing equal opportunities. These include whether the interest and abilities of both sexes are accommodated, in such areas as: equipment and supplies, game and practice schedules, travel and per diem allowance, opportunity for coaching and tutoring, assignment and pay of coaches and tutors, facilities, medical training, housing and dining facilities and services, and publicity.

The regulation allows for a one-year adjustment period at the elementary level and a three-year adjustment period at the secondary/post-secondary level.

The athletics regulations have probably been the most controversial. One of the issues challenged in the courts is whether Title IX applies to athletics at all, especially in the absence of direct federal aid. DHEW asserts that "athletics constitute an integral part of the educational processes of schools and colleges and, as such, are fully subject to the requirements of Title IX, even in the absence of Federal funds going directly to athletics" (40 Fed. Reg. p. 24134, June 4, 1975). In challenges to the parallel language of Title IV, the courts have found that athletics are an integral part of the educational process, as discussed in Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1, 91 S Ct. 1267 (1971); U.S. v. Jefferson County Board of Education, 372 F. 2d 836 (5th Cir. 1966) affirmed en banc 380 F 2d 385 (5th Cir. 1967) cert. denied sub nom; and U.S. v. Caddo Parish Board of Education, 389 U.S. 840, 88 S. Ct. 67 (1967). Under Title IX case law, the integral role of athletics was upheld in Brenden v. Independent School District, 742, 477 F 2d 1292 (8th Cir. 1973) and Cape v. Tennessee Secondary School Athletic Association, 424 F. Supp. 732 (E.D. Tenn. 1976).

In January 1978, a federal district court dismissed a two-year suit brought by the NCAA challenging the same principle.[20] (Seattle P.I. 1/10/78).

Congressional intent further supports this position in Section 844 of the Education Amendments of 1974, Public Law 93-380. A proposed amendment by Senator John Tower to exempt Title IX from revenue producing intercollegiate athletics was replaced in conference committee by the Javits amendment. The Javits amendment to Public Law 93-380 mandated that DHEW publish Title IX regulations that included "reasonable provisions" covering intercollegiate athletics.

Also challenged was the prohibition against separate teams for men and women. Many cases came before the courts protesting the denial of opportunity to women to try out for and participate on a formerly all-male team when no female team was available. Almost without exception, the courts found the denial to be unconstitutional, whether the sport was contact or non-contact. The court upheld this principle in Clinton v. Nagy, 411 F. Supp. 1396 (N.D. Ohio 1974) in regard to a 12-year-old girl wanting to play football. In a similar challenge in Muscare v. O'Malley No. 76-C 3729 (N.D. Ill. 1976), the court found that exclusion, purely on the basis of sex, was unconstitutional. It should be recognized however, the above cases dealt with instances where no team for the excluded sex was offered.

There have been two court rulings which provide examples of what does not constitute equal opportunity. In the first case, Muscare v. O'Malley, the court declared that touch football and tackle football are not equivalent. In Cape v. Tennessee Secondary School Athletic Association, the court found that different rules for boys' and girls' basketball teams denied girls equal opportunity.

Textbooks

Textbooks and curricular materials are totally excluded from Title IX coverage, as provided in Section 86.42. DHEW's position on this aspect of the regulation is that to cover textbooks would "inevitably limit communication and would thrust the Department into the role of Federal censor.... "and ".. might place the Department in a position of limiting free expression in violation of the First Amendment...." (40 Fed. Reg. p. 24135, (June 4, 1975).

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[20] National Collegiate Athletic Association v. Mathews 76-32-C2 (D. Kan. 1976)

Subpart E - Employment

General

Section 86.51 specifically prohibits separation or classification of applicants for employment in any way which limits employment opportunities by sex. Further, recipients may not enter into a formal or informal agreement with an entity which has the effect of discriminating against employees or students. The regulation states that such agreements include relationships with employment and referral agencies, labor unions, and organizations involved with providing or administering fringe benefits.

The final regulation also provides that a recipient cannot grant preference to employment applicants on the basis of attending a single-sex institution or entity if it results in discrimination.

A detailed listing of coverage is also provided in Section 86.51. Basically, all phases of employment are covered: processes prior to employment such as recruitment and application; policies and processes during employment such as hiring, firing and promotion; salaries and other compensation; job assignments and classification; collective bargaining agreements; pregnancy and related conditions, and leave policies; finge benefits; financial support for training and development; social and recreational programs; or any other aspect of employment.

There were several related court cases which illustrated the principles provided for in Section 86.51. The prohibition against classifying employees in a way which limits opportunities by sex is consistent with the court's ruling in Diaz v. Pan American World Airways, Inc. 442 F. 2d 385 (5th Cir. 1971) cert. denied 404 U.S. 950, 92 S. Ct. 275 (1971) and Pond v. Braniff Airways, Inc. 500 F. 2d 161 (5th Cir. 1974). In these cases, the court found that an employer cannot refuse employment to a person on the basis of stereotypes, (i.e. that women make better flight attendants than men).

With regard to giving preference to individuals on the basis of attending a single-sex institution or entity, concerns have arisen as to the regulation's affect on the practice of giving veterans preference. Because the overwhelming majority of veterans are men, preference for veterans often results in preference for men. In Anthony v. Massachusetts, 415 F. Supp. 485 D. Mass. 1976), the court found such preference unconstitutional. That case is being appealed to the Supreme Court.

The regulation's non-discrimination coverage of nepotism policies is illustrated in the case of Sanbonmatsu v. Boyer, 8 EPD 9704 (N.Y.A.D. 1974). In that case, the court ruling prohibited a policy against nepotism which had the effect of discrimination against women.

The regulation also provides that hiring and promotion policies must be non-discriminatory. The last portion of Section 86.51, detailing the coverage of the employment regulations, is similar to the corresponding language in Title VII. The Title VII provisions were tested in the case of Harrington

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v. Vandalia-Butler Board of Education, 418 F. Supp. 603 (S.D. Ohio 1976). The court found that a female physical education teacher was being denied her right to the equal employment conditions guaranteed by Title VII, because she was assigned to teach in a gym inferior to that of the male teachers.

Criteria

Section 86.52 of the employment regulations states that recipients shall not administer or operate any test for employment which has an adverse effect by sex. A qualification to this requirement also specifies that such a test may not be used unless it can validly predict success on the job and alternate tests are not available.

Recruitment

Recruitment and hiring practices are specifically addressed in Section 86.53. The preliminary regulation dealing with recruitment required comparable efforts to recruit both sexes and allowed affirmative action to overcome past discrimination. The final regulation was changed to prohibit discrimination in recruitment and hiring. Further, the regulation provides that if present or past discrimination is found, the recipient must recruit members of the excluded sex to overcome the effects of the discrimination. Also prohibited in the final regulation is the recruitment of employees, primarily or exclusively, from entities which limit participation by sex, if such recruitment has the effect of discrimination.

Compensation, Job Classification and Fringe Benefits

Discrimination in pay or other compensation to employees is prohibited in Section 86.54. The proposed regulation stipulated that distinctions in pay or duties with lower pay, based on sex, were prohibited. In response to public comment, the final regulation added a provision requiring equal pay for equal work. The language of this section of the regulation closely follows the wording of the Equal Pay Act of 1963. The court has interpreted that "equal work" does not necessitate identical jobs, but rather that the jobs under consideration are substantially equal in their actual requirements. This definition was upheld, Hodgson v. Corning Glass Works, 417 U.S. 188, 94 S. Ct. 2223 (1974); Brennan v. Prince William Hospital Corporation, 503 F. 2d (4th Cir. 1974) *cert. denied* 420 U.S. 972, 95 S. Ct. 1392 (1975).

Further, in considering equal pay for equal work, the court has used the following as standards: comparisons of necessary job skills, effort and/or exertion (mental or physical), responsibility, and working conditions. (Brennan v. Woodbridge School District 8 EPD 9640 (D. Del. 1974).)

Section 86.55 prohibits recipients from classifying jobs, maintaining promotion ladders, tenure systems, or descriptions or requirements which differ for males and females. The last portion of this section allows such classification, however, in the case of sex being a bona-fide occupational qualification (BFOQ).

In informal discussions with representatives of the Washington State Human Rights Commission, it was stated that positions which require male or female employees for purposes of "authenticity" were generally considered valid BFOQ's.

Section 86.56 of the employment regulation specifically addresses employee fringe benefits. The requirements of this section generally follow those of the Department of Labor's guidelines for compliance with Executive Order 11246. Fringe benefits are defined as leave policies; medical, hospital, accident or life insurance; retirement benefits; profit sharing and bonus plans; or any other benefit or service of employment. Specifically prohibited is sex discrimination in the availability of fringe benefits. In addition, employee fringe benefit plans must have either equal contributions or equal benefits. Further, such plans must not have different optional or compulsory retirement ages for males and females. In Manhart v. City of Los Angeles, 13 FEP Cases 1625 (9th Cir. 1976), the practice of requiring higher contributions to a retirement plan by women because of longer life expectancy was challenged. The court found such a practice to violate Title VII, despite the fact that the monthly benefits were equal. Thus the court, in this instance, went beyond the requirements of Title IX.

The provision of Title VII dealing with retirement age, with wording corresponding to that of the Title IX regulation, was tested in Rosen v. Public Service and Gas Company, 477 F. 2d 90 (3rd Cir. 1973), and Bartmess v. Drewrys U.S.A., Inc., 444 F. 2d 1186 (7th Cir. 1971). In both of these cases, the court found that forced retirement for women at an earlier age than for men to be a violation of Title VII.

Marital/Parental Status

Section 86.57 relates to the marital or parental status of employees. In general, recipients may not apply any policy or take any action concerning marital or parental status which treats males and females differently. Also prohibited is different treatment based on whether an employee is the principal wage earner in the household.

In addressing the treatment of pregnancy in employment matters, the regulations prohibit treating pregnancy and related conditions different from any other temporary disability. "Treatment" includes leave policies, disability income, seniority, reinstatement and any benefit or other service offered employees. In cases where the recipient does not have a leave policy, the regulation requires that the pregnant employee be at least given leave-without-pay, and re-employed at the same status as when she left. The court's ruling in the case of Andrews v. Drew Municipal Separate School District, 507 F. 2d 611 (5th Cir. 1975) is consistent with the principles contained in this regulation. In this case, the court found that a policy of prohibiting employment of unwed mothers but not of unwed fathers to be unconstitutional.

There have been several decisions with regard to mandatory leave policies for pregnant employees. Courts have generally found such policies unconstitu-

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tional as in LaFleur v. Cleveland Board of Education, 465 F. 2d 1184 (6th Cir. 1972); Buckley v. Coyle Public School System, 476 F. 2d 92 (10th Cir. 1973); and Green v. Waterford Board of Education, 473 F. 2d 629 (2nd Cir. 1973). On appeal in the LaFleur case, the Supreme Court found a mandatory maternity leave policy denied pregnant teachers their right of due process. Further, in Singer v. Mahoning County Board of Mental Retardation, 379 F. Supp. 986 (N.D. Ohio 1974) such practices were found in violation of Title VII.

With regard to consideration of pregnancy as any other temporary disability there have been conflicting court rulings. In Satty v. Nashville Gas Co., 11 FEP Cases 1 (6th Cir. 1975) Cert. granted 45 L.W. 3508 (January 25, 1977, Case No. 75-536), the court found that not including pregnancy in a sick leave policy is a violation of Title VII. The Supreme Court in Geduldig v. Aiello, 417 U.S. 484, 94 S. Ct. 2485 (1974), failed to find unconstitutional the exclusion of pregnancy from disability benefits. Similarly, in Gilbert v. General Electric Co., 97 S. Ct. 401 (1976), the Supreme Court found no violation of Title VII when considering a disability plan which did not include pregnancy. This finding is inconsistent with EEOC guidelines for Title VII. In this ruling, the Supreme Court questioned the authority of these guidelines. Two subsequent court rulings have interpreted the Gilbert decision very narrowly and have ruled that pregnancy-related disabilities must be treated like other disabilities as in Brooklyn Union Gas Co. v. Appeal Board, 14 FEP Cases 42 (N.Y. Ct. of App. 1976); and Jacobs v. Martin Sweet Co., 14 FEP Cases 687 (6th Cir. 1977).

Recently, in Romeo Community Schools v. United State Department of Health, Education and Welfare, Civil Action No. 6-71438 (E.D. Mich. April 7, 1977), the pregnancy and maternity leave provisions of 86.57 were challenged. In Romeo, the court concluded that such requirements could only apply to students, not employees. In making this ruling, the court found that protection against discrimination in employment is provided for elsewhere in Title VII and the Equal Pay Act and thus assumed that Congress did not intend to cover employment in Title IX. The conclusion of Romeo is inconsistent with the decision in Piascik v. Cleveland Museum of Art, 426 F. Supp. 779, (N.D. Ohio 1976), which found that Title IX does apply to employment.

Using the reasoning of the Romeo decision, a U.S. district court in Seattle v. Department of Health, Education and Welfare, (U.S.D.C., W.D. No. C77-631S) struck down the entire Title IX employment regulation, 86.51-.61. The government is expected to appeal. Given the inconsistencies in case law to date, the issue may not be finally decided for some time. In the meantime, it is DHEW policy to enforce the employment portion of the regulation. It is DHEW position* that the regulation was approved by Congress and the President and accurately reflects the intent of Congress.

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* In letter dated January 10, 1977 to Ms. Margaret Dunkle.

Subpart F - Procedure

Interim Procedures

The preliminary regulation set forth specific compliance and enforcement procedures which were modeled after the Title VI regulations. The final regulation, 86.71 - Interim Procedures, stated that Title VI procedural provisions would be utilized until DHEW issued a consolidated procedural regulation for all civil rights mandates. The reason stated for this was "to simplify enforcement during that time and to avoid applying a different procedure for enforcement of requirements concerning discrimination based on race, color or national origin from those based on sex." [21]

A consolidated procedure, including Title IX, has not yet been established. Under the Title VI regulations, claims must be set forth in writing and provide the complainant's name, address, the recipient's name, the date of the alleged violation and an explanation of the basis of the complaint.

The question of whether individuals can pursue Title IX rights independently through the courts or are limited to administrative remedies through DHEW remains unclear. In Cannon v. University of Chicago, 12 EPD 11175 (7th Cir. 1976), the court held that Title IX does not afford an individual the right to independently pursue remedies through the court. In direct conflict with that decision is the case of Piascik v. Cleveland Museum of Art, 14 FEP cases 33 (N.D. Ohio 1976), which concluded that such a right does exist.

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[21] Federal Register, Volume 40, No. 108-24136, June 4, 1975

TITLE IX REGULATION FORMULATION

As discussed in the analysis of the Title IX regulations, controversy over the regulations and their intrepretation continues. The courts,private interest groups, members of Congress, educational institutions and organizations, and other groups have challenged and re-challenged the regulations and enforcement priorities and practices of the Office for Civil Rights.

The many different legal principles at issue in these challenges are of two types: those that contend that the regulations and enforcement do not go far enough in combating sex discrimination, and those that contend that the regulations and enforcement activities are too far-reaching in their control. Another major element of the controversy is whether the regulations meet the "spirit" of the law and "intent" of Congress. Some feel that the failure to address such issues as the elimination of sex bias in text books is a clear example of the failure of the regulations to meet the spirit of the act and the intent of Congress in eliminating sex discrimination in education. Others argue that,in as much as Congress had an opportunity to disapprove the regulations and did not do so, that the regulations should be regarded as consistent with Congressional intent. Counterpoints to this argument are based upon the Congressional regulation review procedure established in 1974. It is argued that the review procedure is very limited because Congress can only reject regulations when, by concurrent resolution, the regulations are found to be, "inconsistent with the act from which it desires its authority..". Testimony indicates that certain members of Congress did question the regulations and state that they went far beyond the scope and intent of the statute. [22] Testimony, for example, on the employment portion of the regulations suggests that Congress would not have amended the Equal Pay Act and extended Title VII coverage to include educational institutions had they intended employment to be covered under Title IX.

However, the argument against Title IX employment coverage is countered by proponents of the regulations who state that employment practices and the treatment of employees is as important as the treatment of students. They cite as support a court ruling on race discrimination in which the court found that "faculty integration is essential to student desegregation. To the extent that teacher discrimination jepardizes the success of desegregating, it is unlawful wholly aside from its effect upon individual teachers." (U.S. v. Jefferson County Board of Education 372 F. 2d at 883).

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[22] Hearings on House Concurrent Resolution 330 (Title IX Regulations) before the House of Representatives Subcommittee on Equal Opportunities of the Committee on Education and Labor, July 14, 1975.

This brief discussion of the controversies over the legality and intent of Title IX are provided to illustrate the current contextual situation of the Title IX regulations. Despite the fact that almost 10,000 comments were received by DHEW prior to issuing the final regulations, interpretations and litigation over the meaning and intent of the regulations continues. The result is a sense of impermanence surrounding the regulations which in turn fosters dissent from potential supporters and encourages non-compliance by those who are unwilling to act upon Title IX.

After studying the debate which continues over Title IX, it was felt that the regulation formulation process used by DHEW caused some of the confusion and delay in implementing the regulations. A technical working paper was therefore developed which postulated a model regulation formulation process to provide comparison to the actual process used, and to provide an example for improving the formulation process for future use. The focus of the model is on dealing with situations of social change. The model is followed by a narrative comparison of the regulation formulation process used for Title IX to illustrate how the model process would have prevented a number of the problems now affecting Title IX implementation.

Model Regulation Formulation Process

Step I - The regulatory process is initiated when the Department, the Administration, or Congress begins serious consideration of a law which will have an effect on society in general or some segment of it. Serious consideration is considered to occur when the Administration requests legislation or when Congressional hearings on the subject are scheduled.

During Step I, staff are assigned the responsibility for identifying and obtaining the views of a broad cross-section of people within and outside of government who are knowledgable about the subject.

In addition, analyses are prepared which indicate the major substantive issues and what difficulties could be encountered in administering the act.

Also, during this step, a record is compiled of the testimony provided during committee hearings, as well as any congressional "intent" or "mood" which appears to emerge during the hearings.

Step II - The drafting of the legislation signals the second step of the model. At this point, staff provide information on what general features the legislation and regulations might contain to facilitate achievement of the objective of the act. If, at this point, a decision is under consideration to model the proposed piece of legislation after an existing act, staff are required to carefully assess whether the model act and its implementing regulations were effective.

During this period, discussions should also be held with the knowledgable people identified earlier. The purpose of these discussions would be to clarify substantive issues and attempt to reconcile differences.

Step III - Upon enactment of the legislation, which initiates the third step of the model, the regulation formulation staff would have available:

(1) The legislation.
(2) A sense of Congressional Intent.
(3) Testimony from Congressional hearings.
(4) A record of the substantial issues and the extent to which they have been reconciled.
(5) An analysis of the general form which the regulations could take to be consistent with the act and facilitate achieving its objective.

Based upon this information, a draft of the regulations should be prepared. Additional meetings between staff and interested parties should be conducted to reconcile differences, and a joint task force composed of opposing interests could be appointed to draft suggested solutions for review by the staff.

Step IV - Upon issuance of the draft regulations and their publication in the Federal Register, Step IV is enacted. At this point, the regional offices should be fully briefed on the draft regulations and they, in turn, should conduct regional meetings for public comment on the draft regulations.

In the event that interest groups indicate differing positions on the regulations, a national task force composed of the groups and other knowlegable people should be established to help reconcile differences.

Step V - The final regulations should be drafted in Step V, based upon the information compiled and comments received from the regional offices and any of the recommendations from the national task force of Step IV. If litigation over the regulations is anticipated, care should be taken to develop a defensible legal basis for the regulation.

If policy intrepretations or other information is necessary to help explain the regulations, they should be developed for issuance in full at the time the final regulations are released.

Step VI - In Step VI, upon issuance of the final regulations, interested parties at the national level should be fully advised of the content of the regulations. Similar regional meetings should be held to inform local constituents of the regulations.

Step VII - The immediate notification of interested groups in Step VI should be followed by informational workshops to ensure that field offices and all affected groups fully understand what is expected of them and what penalties will be invoked for non-compliance.

Step VIII - Enforce the regulations.

Comparison of Model With Actual Process

While it is recognized that there were extenuating circumstances which cause many of the problems with the formulation of the Title IX regulations, a discussion of the shortcomings of the Title IX formulation process may assist those in the future who are assigned responsibilities for drafting similar regulations. The actual Title IX formulation process is therefore compared in the following discussion to the proposed model process to identify the inadequacies of the past process.

In the model process, records and analyses are developed during the preliminary steps which assist in the drafting of the regulations after passage of the act. In contrast, formulation of the Title IX regulations did not begin until after passage of the act, with the resulting situation that while regulations were needed immediately, there was no background information and analytical data compiled to speed their drafting. The lack of preparation for the drafting was a probable partial cause of the long delay in issuance of the draft regulations. In addition, the actual process did not provide for careful analysis of the effectiveness of model legislation, such as Title VI, which could have provided additional guidance in developing the facilitating provisions of the regulations.

The model process calls for the appointment of a joint task force, in Step III, and a national task force, in Step IV, to reconcile differences over the content of the regulations. It is difficult to determine whether such appointments would have reduced the controversy now surrounding Title IX, but it is likely that the task forces of the model process would have provided a greater opportunity for adequate representation of all groups and additional meaningful input into the draft and final regulations. Civil rights legislation should include as much public involvement as possible in the formulation of its regulations because of its inherent nature in creating social change and the resulting need to dispell subsequent debate and dissension to insure its effectiveness.

In the research of the history of Title IX, it was discovered that no records were compiled by the federal government which provided, in one central source, the development of the law and its regulations. This lack of a central, definitive source of information contributed to the continuing controversy over the purpose of Title IX. The model process therefore provides for the compilation of various types of records and information as listed in Step III, to provide an author tive central source of information which would act to limit any debate over the intent of an act.

The careful record-keeping and more adequate legal research would also provide for an improved legal defense, which could lessen the amount of litigation and reduce the liklihood of adverse rulings.

A major cause of the controversy over Title IX and difficulty in implementing regulations results from the lack of policies and other interpretative information issued by DHEW. Policy statements did not appear with the issuance of the regulations and were issued only sporadically later. The model process remedies the effects of the late issuance of policies by requiring, in Step V, that interpretative information be developed and released with the final regulations.

Finally, Steps VI and VII of the model process provide for careful and thorough orientation of regional staff, local interest groups, and others, which the research on Title IX enactment indicates was lacking from the process. Observations in the field indicate that, with regard to Title IX, not enough orientation workshops were held and that regional staff and local educators were not clearly informed of the requirements and the actions they needed to take. The improved understanding at the local level would have improved the quality of regional staff interpretations and advice which would have in turn encouraged respect for, and greater attention to implementing, Title IX by local education agencies and institutions.

STATE LAWS ON SEX DISCRIMINATION

INTRODUCTION

The following section of this report briefly described state laws and regulations of Alaska, Washington, Oregon, and Idaho which impact on sex discrimination in education.

For a descriptive listing of state laws dealing with sex discrimination nationwide, the reader may refer to the Education Commission of the States' 1975 and 1976 reports entitled "A Handbook of State Laws and Policies Affecting Equal Rights for Women in Education."

ALASKA

Alaska State law does not specifically or comprehensively address the elimination of sex discrimination in all areas of education. However, a State statute does prohibit discrimination based upon sex, color or nationality for the University of Alaska (AS 14.40.050). Sex discrimination is also prohibited in awarding scholarships, loan and grant funds (AS 14.40.880). In 1972, the State Constitution was amended to prohibit denial of civil rights on the basis of sex.

In addition, a Governor's Code of Fair Practices for State Agencies (1967) provides guidelines for eliminating sex discrimination in all state agency personnel procedures and all state services and facilities. In 1976, the State Board of Education adopted a resolution calling for the prohibition of sex bias in education.

Legislation similar to Title IX was introduced in the 1977 session of the Alaska Legislature. The proposed legislation generally covered the same program areas as Title IX, but also required that textbooks and instructional programs be reviewed every three years for sex bias. The proposed legislation passed one House of the Legislature during the 1977 session, but was defeated in the other House. Plans are underway to have it reconsidered in the 1978 session of the Alaska Legislature.

IDAHO

Idaho State law does not specifically or comprehensively address the elimination of sex discrimination in education, although the Federal Equal Pay Act prohibits sex discrimination in pay, and the Fair Employment Act prohibits sex discrimination in hiring, discharging, compensation, terms, condition, or privileges of employment.

However, in 1975 the Idaho State Board of Education and the State Superintendent of Public Instruction issued a joint policy statement regarding equal opportunity based on sex in the employment and the delivery of educational services.

Under this policy, the only criteria to be used in all aspects of employment are individual work merit and ability, job qualification, and job performance. Discrimination is prohibited on basis of sex and other factors.[1] The policy also specifically states that schools will avoid "engaging in discriminatory practices of hiring because of minority group members or because of sex", which may make remedial action taken to overcome the effects of past discrimination difficult to accomplish.

All those under the supervision of the State Board of Education and State Superintendent of Public Instruction are required to take affirmative action to assure that the educational resources and opportunities are made available on an equal basis without regard to sex.

While the State Human Rights Commission has authority to "secure freedom from discrimination", it specifically omits sex discrimination in education while including most other groups in most other areas.

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[1] Includes sex, conditions of birth, ancestry, national or ethnic origin, race, color, exceptionality, religion, family relationships or personal or political patronage.

OREGON

Oregon State law prohibits discrimination on the basis of sex in any public elementary, secondary or community college education program, or in any higher education program financed by the State (ORS 659.150-.155).

The requirements of the non-sex discrimination law in Oregon education are similar to Title IX requirements. However, where Title IX makes a specific exemption relating to textbooks and curricular materials, the Oregon law requires the State Board of Education to encourage the development and implementation of non-discriminatory curriculum that will improve instructional effectiveness. If an investigation finds that textbooks or instructional materials have a discriminatory impact, the institution is required to make reasonable efforts to use supplemental materials to balance the biased material.

There are no specific requirements in the State for a self-evaluation of policies/practices, although institutions must show evidence of compliance based on their affirmative action developments and implementations, and prepare progress reports for the State Department of Education.

Oregon State regulations state that there be no "unreasonable discrimination" in admissions or in tests or other criteria for admissions, and that recruitment, course offering and financial assistance may not "unreasonably differentiate" between sexes. The State regulation contains no time allowances for compliance, as does Title IX, in the areas of physical education and athletics.

Similar to Title IX regulations, the State regulations cover the appointment of a compliance officer, admissions, recruitment, programs and activity, counseling and use of counseling materials, housing, comparable facilities, financial aid, employment assistance to students, health and insurance benefits, marital/parental status, and athletics. The State Fair Employment Practice law covers non-discrimination on the basis of sex in employment.

WASHINGTON

Washington State law and regulations prohibit sex discrimination in public schools from kindergarten to the twelfth grades, in the same general program areas as Title IX (Chapter 28A .85 RCW). In addition, the law specifically states that each local school district should include in-service training programs on sex bias awareness and elimination for certificated and/or classroom personnel. Further, school districts are required to conduct an annual evaluation of their recreational and athletic programs to ensure that equal opportunities are available to both sexes, and to develop survey instruments to determine student male/female interests in specific sports.

The elimination of sex bias in textbooks and instructional materials is also specifically covered in the State regulations, an area which is not covered by Title IX. The instructional materials committee in each school district is required to establish and maintain criteria for identifying and eliminating sex bias. Should it be impossible to replace some sex biased materials immediately, supplemental materials or aids must be used concurrently to balance the biased material.

The Superintendent of Public Instruction is required to monitor compliance by local school districts, to establish time tables for compliance, and establish guidelines for affirmative action programs in employment to be adopted by all school districts. Washington State regulations required that each public school district establish and implement affirmative action programs on employment policies and programs to eliminate sex discrimination by July 1, 1976. The athletics and physical education classes were also required to achieve compliance by that date.

Similar to Title IX, the State law covers counseling and use of counseling materials, athletics and physical education classes, course offerings, designation of responsible employee, establishment of complaint procedures and employment provisions. However, the State law does not require self-evaluation of policies and practices relating to students; the affirmative action provision requires that only in the area of employment. The State non-discrimination laws also cover employment and housing, both enforced by the State Human Rights Commission.

APPENDIX IV

MATRIX OF TITLE IX REGULATION ANALYSIS

POLICY AREA	PRELIMINARY REGULATIONS	FINAL REGULATIONS	RATIONALE FOR CHANGE	COMPLIANCE ACTION/CRITERIA
SUBPART A - INTRODUCTION				
1. Purpose 86.1	1. States that Title IX is designed to eliminate sex discrimination in any educational program or activity receiving federal financial aid, with certain exceptions.	1. Same, but it applies whether or not such programs or activities are offered by an educational institution.	1. Broadens coverage to include all educational programs and activities receiving federal financial assistance.	1. If someone is excluded participation in, denied the benefits of or subjected to discrimination on the basis of sex under an educational program or actively receiving federal financial assistance, Title IX is applicable.
2. Definitions 86.2 (a) (r)	2. Defines the terms used in the regulations.	2. Changed the statutory definition of Title IX to reflect amendments enacted by Congress.		
3. General Provision a. Remedial Action 86.3 (a)	3a. Must take remedial action as needed to overcome effects of past discrimination.	3a. Modified to require remedial action as deemed necessary when discrimination is found by OCR.	3a. Clarification	
b. Affirmative Action 86.3 (b)	3b. In absence of prior discrimination, affirmative action is permitted to overcome effects of conditions resulting in limited participation of a particular sex member.	3b. Adds that the regulation does not alter any obligations under Executive Order 11246.	3b. Not requiring affirmative action under Title IX does not alter obligations for such action under Executive Order 11246.	
c. Self Evaluation 86.3 (c)	3c. Not specifically mentioned.	3c. Evaluate policies practices and effects of student admissions and treatment and employment or personnel. Modify policy/practices not meeting requirements. Remedy effects of any discrimination resulting from policy/practies.	3c. Discriminatory policy practices continue because recipients may be unaware of existence. A self evaluation can uncover such activity without federal intrusion.	3c. Have on file for 3 years and available to OCR how discriminatory policies, practices were modified and what remedial steps were taken to eliminate effects of discrimination.
4. Assurances Required 86.4 (a)(b)(c)	4. Recipient must provide assurances of compliance as condition of approval for federal assistance.	4. In addition, if recipient does not commit itself to take necessary remedial action, such assurances are unsatisfactory.	4. Assurances are meaningless until action is taken to remedy any discrimination found.	4. All applications for federal funds must be accompanied by written assurances.
5. Transfer of Property 86.5	5. When property paid for in whole or in part by federal monies is transferred, without the federal share of the fair market value being returned to the federal government, then transferor and transferee are both subject to Title IX.	5. Same		
6. Effect of Other Requirements 86.6 a. Effect of Other Federal Provisions.	6a. Obligations imposed by Title IX are independent and do not alter obligations under other statutes and executive orders.	6a. Same		
b. Effect of State or Local Law	6b. Compliance with Title IX 6b. Same cannot be avoided by relying on state or local laws which require different requirements.	6b. Same		
c. Effect of Rules and Regulations of Private Organizations	6c. Compliance with Title IX cannot be avoided by relying on the rules or regulations of any organization or private entity.	6c. Same		

POLICY AREA	PRELIMINARY REGULATIONS	FINAL REGULATIONS	RATIONALE FOR CHANGE	COMPLIANCE ACTION/CRITERIA
7. Effect of Employment Opportunities 86.7	7. Recipients cannot avoid compliance based upon the fact or assumption that employment opportunities are more limited for one sex than another.	7. Same		
8. Responsible Employee/Complaint Procedure 86.8 (a)(b)	8. Employee designated to coordinate compliance, including investigating complaints.	8. Adds that recipient must adopt and publish grievance procedure providing prompt and equitable resolution.	8. Own grievance procedure allows recipients initial attempt to resolve problems without federal intervention.	8. Employee designated to coordinate compliance and investigate complaints. Notification to students, employees, of persons name, address and phone. Adopt and publish grievance process.
9. Dissemination 86.9 (a)(b)(c)	9. Must implement specifc and continuing steps to notify applicants, students, employees, counselors and other interested parties of non-discrimination policy in programs and activities, as required under Title IX.	9. Also includes notifying parents of elementary and secondary school students and all unions or proffessional organizations having collective bargaining or professional agreements.		9. Notification of non-sex discrimination, as required under Title IX, and refer Title IX inquiries to designated employee or to OCR, to applicants for admission or employment, students, parents, referral sources, unions and professional organizations. Also must be in newspapers, house organs and in announcements, bulletins, catalogs, and application forms.
SUBPART B - COVERAGE				
1. Application 86.11	1. Applies to every recipient and educational program which receives or benefits from federal funds.	1. Same		
2. Exemptions a. Religious Organizations 86.12 (a)(b)	2a. Does not apply to educational institutions controlled by religious organizations where tenet is in conflict with regulations.	2a. Adds exemption of religious organization by a written statement from the highest ranking official.	2a. Clarifies and simplifies exemptions.	2a. Must specify tenet of religious organization that is in conflict with provision of regulation.
b. Military and Merchant Marine 86.13	2b. Does not apply to U.S. military service or merchant marine.	2b. No change.		2b. None
c. Social Fraternity and Sororities 86.14 (a)	2c. Not specifically mentioned.	2c. Exempts membership practices of college fraternities and sororities.	2c. Bayh amendment of 1974 permits recipient to provide assistance if groups are social in nature.	2c. Must be social in nature and tax exempt under Sec. 501 (a) of Internal Revenue Code of 1954 and active membership of students in higher education.
d. YMCA, YWCA, Girl Scouts, Boy Scouts, Camp Fire Girls 86.14 (b)	2d. Not specifically mentioned.	2d. Specifically exempts membership practices of named youth organizations.	2d. Bayh amendment of 1974 provides exemptions for specifically named youth groups.	
e. Voluntary Youth Service Organizations 86.14 (c)	2e. Not specifically mentioned.	2e. Exempts membership practices of certain youth service groups.	2e. Bayh amendment of 1974 provides for such exemptions.	2e. Must be tax exempt under Sec. 501 (a) of Internal Revenue Code and have membership under 19 years old and single sex.
3. Admissions a. General 86.15 (a)	3a. Admissions to educational institutions prior to June 24, 1973 not covered.	3a. Same	3a. Same	
b. Separate Units 86.15 (b)	3b. Each administratively separate unit shall be deemed to be an educational institution.	3b. No change.		
c. Application 86.15 (c)	3c. Recipient shall not discriminate due to sex in admissions or recruitment, unless specifically exempted.	3c. No change.		3c. Covers vocational schools at public or private jr. high, high school and post secondary level, as mandated by statute covering vocational education.
d. Educational Institutions 86.15 (d)	3d. Applies only to vocational education, professional education, graduate higher education and public institutions of under graduate higher education.	3d. No change.		3d. Statute only covers admissions to those institutions named. Admission policy of private undergraduate institutions exempt, as ar public and private preschool, elementary and secondary school. Congress did not address overlap between professional and undergraduat

POLICY AREA	PRELIMINARY REGULATIONS	FINAL REGULATIONS	RATIONALE FOR CHANGE	COMPLIANCE ACTION/CRITERIA
e. Public Institution of Undergraduate Higher Education 86.15 (d)	3e. Does not apply to any public institution of undergraduate higher education that has traditionally and continually from its establishment had a policy of single sex student membership.	3e. No change.		
4. Transition Plans 86.16 and 86.17	4. Exempts certain institutions carrying out a transition plan approved by the U.S. Comm. of Education to move from single sex admission to admission of both sexes. Also defines content of transition plans.	4. No change.		
SUBPART C - ADMISSION/ RECRUITMENT				
1. Admissions a. General 86.21 (a)	1a. General prohibition of discrimination in admissions.	1a. No change.		
b. Prohibitions 86.21 (b)	1b. Specifically prohibits ranking applicants separately, using quotas and differential treatment on the basis of sex.	1b. No change.		1b. Must show that students were recruited and admitted on non-discriminatory basis. May not set quotas or use different standards.
c. Tests/Criteria 86.21 (2)	1c. Prohibits tests or criteria that have an adverse effect based on sex, unless it can validly predict success.	1c. Amendment adds that a discriminatory test or criteria cannot be used, even if it can be shown to predict success, if non-discriminatory tests or criteria are available.	1c. Clarifies a principle that was confusing in the original proposed regulation.	1c. Must show that tests do not have adverse affects, or that there are no better alternatives.
d. Marital/Parental Status 86.21 (c)	1d. Specifically prohibits discriminatory admission rules concerning marital or parental status; that pregnancy is to be treated as any other temporary disability; and that there be no admission inquiry as to marital status unless asked of both sexes and does not result in discrimination.	1d. No change.		1d. Must show policy/criteria of non-discrimination on marital or parental status; on pregnancy; on treating pregnancy as any other temporary disability; and that application forms or inquiries do not request marital status.
2. Preference 86.22	2. Prohibits preference in admissions on basis of attending a particular school if it results in discrimination.	2. Not important if we can avoid reproduction of large table. No change.		2. Must show that if there is preference for admitting students from any single sex school, it does not have the effect of discrimination.
3. Recruitment 86.23 (a)(b)	3. Make comparable efforts to recruit both sexes, unless required to take remedial action or choose to take affirmative action.	3. Changed to; shall not discriminate on basis of sex in recruiting and admission of students. May be required to take remedial or choose to take affirmative action.	3. Bring language into conformance with language dealing with recruitment of employees.	3. Must show non-discriminatory results of student recruitment activities. If recruiting from single sex school, must show that there is no effect of discrimination.
SUBPART D - PROGRAM/ ACTIVITIES				
1. Program/Activity a. General 86.31	1a. Generally prohibits discrimination based on sex in educational programs which receive or benefit from federal funding.	1a. Same.		

POLICY AREA	PRELIMINARY REGULATIONS	FINAL REGULATIONS	RATIONALE FOR CHANGE	COMPLIANCE ACTION/CRITERIA
b. Specific Prohibitions 86.31 (b)	1b. In the matter of aids, benefits or services, persons shall not be treated differently in satisfying requirements; or be provided different aid, service or benefits; or be denied such. Cannot subject any person to different rules, sanctions or other treatment; or discriminate in the application of any rules of appearance; nor apply any rule concerning student or applicant residence.	1b. Amendment includes eligibility for instate fees and tuition on residency, as well as adding specific prohibitions against providing significant aid to any outside organizations that discriminate.	1b. Clarifies that dealings with outside organizations, not part of recipients institution, are subject to this regulation.	1b. Must show that no student on basis of sex is excluded from participating in, denied benefit of, or subjected to discrimination under any academic, extra curricular, research, occupational program or activity.
c. Foreign Scholarships 86.31 (c)	1c. Exempts single sex foreign financial assistance.	1c. Amendment specifically permits recipients to aid in or administer foreign scholarships restricted to one sex, provided that reasonable opportunities are available for other sex in similar studies.	1c. No intent by Congress to cause programs such as Rhodes Scholar to be discontinued.	1c. Scholarship must be established by foreign or domestic will, trust or by act of foreign government that restricts to one sex and used for study abroad and awarded to matriculating or graduate student. Resources open to other sex.
d. Programs not Operated by Recipients 86.31 (d)	1d. Requires that recipient develop and implement process to assure itself that operators or sponsors of programs/activities do not discriminate and that the recipient shall not facilitate, require permit or consider participation if they do.	1d. Amendment of 1976 exempts father/son, mother/daughter activities. Also exempts beauty contest winners and Boys State/Nation, Girls State/Nation activities.	1d. Exemptions for Jr. Miss type of pageants judged on personal appearance, poise and talent. (Not extended to males).	1d. Must cease participation if recipient discovers program is discriminatory.
2. Housing a. General 86.32 (a)	2a. Cannot apply different regulations, fees, requirements or offer different services or benefits.	2a. No change.		2a. Must show non-discrimination in housing unless exempted in regulations.
b. Provided by Recipient 86.32 (b)	2b. Separate housing permitted if comparable to both sexes in quality, cost and quantity.	2b. No change.		2b. Must show that where separate housing is provided, that it is comparable in quantity, proportion, quality and cost to students of both sexes.
c. Other Housing 86.32 (c)	2c. Recipient assisting outside agency providing student housing must assure that such housing is comparable to both sexes in quantity, quality and cost.	2c. Amendment includes that in listing or approving off campus housing, recipient may not be required to make on-site review but must take reasonable steps that such housing to assure non-discrimination.	2c. In response to comments, clarifies that on-site reviews are permissable, but not required as routine.	2c. Must show that reasonable actio was taken to assure comparable housing to both sexes by the organization providing housing.
3. Comparable Facilities 86.33	3. Recognizes individual rights to privacy in situations involving disrobing or performing certain bodily functions.	3. No change.		3. Facilities must be comparable for each sex; sex segregated facilities not mandated but permitted.
4. Course Offering a. Physical Education 86.34 (a)	4a. Recipient cannot provide any course or activity separately or require or refuse participation by any student, including courses in health, physical ed, industrial, business, vocational, technical, home economics, music and adult ed.	4a. Amendment requires physical ed classes at elementary level to comply no later than 1 year, and secondary and post secondary level within 3 years.	4a. In response to comments, allows sufficient time to adjust schedules and prepare staff.	4a. Must show full compliance by data specified.

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b. Physical Education Exemptions 86.34 (b)(c)(d)	4b. Not specifically mentioned.	4b. Amendment modifies requirement by not prohibiting grouping by ability assessed by objective standards, or separation by sex within physical ed class in activities, contact sports. If the use of a single standard to measure skill or progress has an adverse effect, must change to standards not having adverse effect.	4b. Provides additional clarification to proposed regulation.	4b. Must show that if students are grouped by ability, that the standards are objective and based on performance and applied without regard to sex. Sex segregation in bodily contact sports and physical ed not mandatory.
c. Human Sexuality 86.34 (e)	4c. Allowed separate sessions in sex education.	4c. Portions of elementary and secondary school classes dealing exclusively with human sexuality may be conducted separately.	4c. In response to comments, only allows separation in the portions of classes dealing exclusively rather than in part, with human sexuality. Does not require schools to offer sex education.	
d. Chorus 86.34 (f)	4d. Not specifically mentioned.	4d. Requirements permitted based on vocal range that may result in single sex chorus.	4d. In response to comments, provides additional clarification of proposed regulation.	
5. Access to Schools Operated by L.E.A.'s 86.35	5. Extends coverage to vocational ed institutions operated by LEA's.	5. Same.		5. Cannot deny access to recipient operated vocational ed schools unless otherwise make available comparable courses, services, and facilities pursuant to same.
6. Counseling, Appraisal and Materials				
a. Counseling 86.36 (a)	6a. Prohibited discriminatory tests and materials.	6a. Shall not discriminate on basis of sex in counseling or guidance of students or applicants for admission.	6a. In response to comments, prohibits discrimination in counseling itself rather than just in tests and materials.	6a. Must show that there is no discrimination or effect of discrimination in guidance and counseling of students and applicants for admission.
b. Appraisal and Materials 86.36 (b)(c)	6b. Shall not use different materials or materials that permit or require different treatment.	6b. Adds that recipient cannot use different materials or different treatment unless it covers same occupations and interest area and essential to eliminate sex bias. Internal procedures will be developed and used to ensure materials do not discriminate. Disproportionate classes resulting from counseling tests or instruments require action for assurance that disproportion is not due to descrimination in the instrument or application of it, or in counseling or appraisal materials used by counselor.	6b. Provides a more precise standard in response to comments.	6b. Materials and appraisal must show that the results do not show adverse effects and that the internal procedures reflect this. When adverse effects are found, must take action to show that it was not the fault of the testing instrument materials or in its application.
7. Financial Assistance a. General 86.37 (a)	7a. In providing financial aid, unlawful to provide different amounts or types, limit eligibility or apply different criteria or otherwise discriminate. Cannot solicit, list, approve, provide facilities or services to any group that discriminates.	7a. Also cannot apply any rule on eligibility for aid treating persons differently with regard to marital or parental status.	7a. Expanded coverage.	7a. Must show that any financial aid is provided in non-discriminatory manner.

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b. Aid Established by Certain Legal Instruments 86.37 (b)	7b. Must develop and use procedure for awarding aid that selects students on a non-discriminatory basis rather than on availability of sex restricted funds. Also that no student is denied the award because of any absence of aid designated for members of that sex.	7b. Adds that recipient can administer or aid single sex scholarships, fellowships or other aid if established by will, trust bequeath or by act of foreign government requiring award to particular sex, if overall effect does not discriminate.	7b. Response to comments that proposed regulations would dry up a substantial portion of funds from wills, trusts, bequeaths. Regulations require awarding aid on basis of criteria other than sex. After eligible students are identified, awards may be given from both restricted and non-restricted sources.	7b. Must show that procedures were developed where students were selected for aid on basis other than sex, and that awards were made from both sex restricte and non-restricted sources. If not enough aid is available from non-restricted sources for one sex, required to obtain more funds, or award less from restricted fund.
c. Athletic Scholarships 86.37 (c)	7c. Separate financial aid for each sex permitted if part of separate teams.	7c. Amendment includes that reasonable opportunities must be provided both sexes in awarding athletic scholarship or grants-in-aid in proportion to the members of students of each sex participating in athletics. Separate scholarship or aid permitted as part of separate athletic teams for each sex, if consistent with above provision.		7c. Must show that reasonable opportunities for scholarship was provided to both sexes in proportion to number of students of each sex participating in interscholastic or intercollegiate athletics.
8. Employment Assistance to Students 86.38	8. Any assistance provided in making outside employment available to students and employment of students by recipient must be non-discriminatory.	8. Recipients providing assistance to agencies for student employment, must assure itself that employment is offered in a non-discriminatory manner or not render such service. Recipients cannot discriminate in student employment.		8. Must show that any outside agency receiving assistance from recipient for employing students is provided on non-discriminating basis. Employment of students by the recipient must also be non-discriminatory.
9. Health/Insurance 86.39	9. Prohibits discrimination in providing medical, hospital, accident, or life insurance benefit, services, policy or plan. Does not prohibit recipients from providing benefit or service that may be used by a different proportion of one sex.	9. Adds that any recipient providing full health coverage must provide gynecological care.	9. Amendment does not require employing specialist physician. Any limitation on health services offered cannot be based on sex.	9. Must show that any health benefits or services do not discriminate.
10. Marital or Parental Status 86.40 (b) (1) a. Status Generally	10a. May not treat students on the basis of sex differently because of marital or parental status.	10a. Same.		
b. Pregnancy and Related Conditions	10b. Cannot discriminate or exclude student from educational program or activity on basis of pregnancy, childbirth, false pregnancy, miscarriage, abortion, or recovery therefrom unless student voluntarily requests to participate in a separate portion of program or activity.	10b. Remains same except replaces miscarriage and abortions with termination or pregnancy.		10b. Must show that such students are not discriminated against and that any separate participation is voluntarily.
c. Physician Certification 86.40 (b) (2)	10c. Separate participation allowed if students physician certifies that it is necessary for physical, mental or emotional well being.	10c. Amendment modified so student may be required to obtain physician's certification of physically and emotionally able to participate, if it is required from all students with other physical or emotional conditions requiring doctor's care.	10c. Response to public comments.	10c. Must show that if such students require physician's certification that all other students under doctor's care for physical or emotional conditions required same certification from physician.

POLICY AREA	PRELIMINARY REGULATIONS	FINAL REGULATIONS	RATIONALE FOR CHANGE	COMPLIANCE ACTION/CRITERIA
8. State and Local Law 86.58 (a)(b)	8. Any provision of employment is not alleviated by any state or local law.	8. Same.		8. Must show that any benefits provided to one sex under state or local law requirement is provided the same to other sex.
9. Pre-Employment Inquiry a. Marital Status 86.60 (a)	9a. Cannot ask before hiring of applicant's marital status or whether Miss or Mrs.	9a. No change.		9a. Must show that application form does not inquire as to marital status.
b. Sex 86.60 (b)	9b. Can ask of the applicant's sex, if asked of both sexes and not used for discriminatory reasons.	9b. No change.		9b. Must show that any pre-employment inquiry as to sex of applicant is asked of both sex and that it was not used for discriminatory reasons.
10. Bona Fide Occupational Qualifications (BFOQ) 86.61	10. If sex is BFOQ, can take action otherwise prohibited by employment regulation provision.	10. No change.	10. Consistent with policies of Equal Employment Opportunity Commission and the Office of Federal Contract Compliance.	10. Must show reason for BFOQ.
SUBPART F - PROCEDURE				
1. Interim Procedure 86.71	1. No specific mention of interim procedures, but sets forth specific procedures for implementing Title IX, similar to provisions implementing Title VI.	1. Amends so that procedural provisions applicable to Title VI of Civil Rights Act of 1964 is adopted.	1. Adopted Title VI procedures during interim period between effective date of regulation and final consolidated procedural regulation to simplify enforcement and to avoid applying different procedures for race than for sex.	

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d. Separate Programs 86.40 (b)(3)	10d. Not specifically mentioned.	10d. Any separate education program or activity for voluntary participation by pregnant students must be comparable to those offered non-pregnant students.		10d. Must show program to be comparable with others.
e. Treatment 86.40 (b)(4)	10e. Pregnancy, childbirth, false pregnancy, miscarriage, abortion, or recovery therefrom shall be treated in the same manner and under same policies as any other temporary disability with respect to any medical or hospital benefits that are administered, offered or participated.	10e. Only changes "miscarriage and abortion to "termination of pregnancy."	10e. Response to public comments.	10e. Must show that conditions related to pregnancy of students are treated the same as any other temporary disability with respect to medical services.
f. Leave of Absence 86.40 (b)(5)	10f. If no policy on student leave, or student does not qualify; pregnancy, false pregnancy, miscarriage, abortion, or recovery therefrom is justification for leave as long as medically necessary with the student reinstated to same status when leave began.	10f. Only changes "miscarriage and abortion "to termination of pregnancy."	10f. Response to public comments.	10f. Must show no discrimination because of pregnancy or related to conditions.
11. Athletics a. General 86.41 (a)	11a. Athletics must be operated without discrimination in participation, and no student can be denied benefits or treated differently.	11a. Amended to include any interscholastic, intercollegiate, clubs, or intramural athletics.	11a. In response to comments clarifies that intramural athletics are covered. Athletics are an integral part of education.	11a. Must show that there is no discrimination because of sex in any athletic program covered under this regulation.
b. Separate Teams 86.14 (b)	11b. No separate athletic program unless selection is based on competitive skill. No discrimination between separate teams in necessary equipment or supplies.	11b. Amendment includes that recipient can operate or sponsor separate teams where selection is based on competitive skill or if it is a contact sport, provided that in non-contact sports, women allowed to compete if no women's team is available.	11b. Response to public comments.	11b. Must show that competitive skill is basis for selecting team member unless contact sport. Also require to provide separate teams where provision of only one team would not accommodate interest and ability of both sexes, whether contact sport or non-contact.
c. Equal Opportunity 86.41 (c)	11c. Must make affirmative efforts to provide equal opportunity for both sexes in athletics. Unequal aggregate expenditures do not constitute non-compliance but failure to provide necessary funds is a factor.	11c. Amendment adds consideration of equal opportunity by factors of interest, ability of both sexes, equipment and supplies, scheduling games and practices, travel and per diem, coaching and tutoring, locker room, practice and competitive facility, housing and dining facility and publicity.	11c. Response to public comments; expanded to provide additional guidance on factors department considers integral to equal opportunity.	11c. Must show that sports and levels of competition offered accommodate interests and ability of both sexes. Also must show that there is equity in providing equipment, supplies, scheduling games and practices, coaching. Does not demand equal expenditures, but must provide necessary funds for separate teams.
d. Adjustment Period 86.41 (d)	11d. Not specifically mentioned.	11d. Elementary level must comply by one year. Secondary and post secondary must comply within 3 years.	11d. Provides similar time period for compliance as in physical education adjustment.	11d. Must show full compliance in athletic programs by date specified.
12. Textbook/Curricular Materials 86.42	12. Did not cover.	12. Textbooks, curricular materials specifically exempted from coverage.	12. No intent by Congress to include this and is exempted to avoid any potential conflict with Constitution's First Amendment.	

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SUBPART E - EMPLOYMENT				
1. General 86.51 (a)(b)	1. No person shall, because of sex, be excluded from participating in, denied benefits of, or subject to discrimination in employment, recruiting, consideration, or selection in full or part time employment; that there be no limit, segregation or classification that adversely impacts opportunity; and cannot enter into any agreement with any party that subjects individuals to discrimination.	1. Adds that recipient cannot grant preference to employment applicants on basis of attending any education institution that only admits one sex, if the effect discriminates.	1. Follows policies of both the federal Equal Employment Opportunities Commission and the Dept. of Labor's Office of Federal Contract Complance.	1. Must show no discrimination in any aspect of employment policies/prac
2. Criteria 86.52 (a)(b)	2. Cannot administer or operate any tests or criteria that result in adverse effect, unless it can validly predict success and alternate tests are not available.	2. No change.		2. Must show that any test used does not result in any adverse effects.
3. Recruitment 86.53 (a)(b)	3. Requires comparable efforts to recruit both sexes, except for affirmative action to overcome effects of past discrimination.	3. Changed so that employment cannot discriminate in recruiting and hiring. If done so in past or found to be discriminatory, must recruit member of other sex to overcome effects.	3. Recognized that in some situations, it costs more to recruit one sex members than the other, i.e., location and proximity.	3. If found to be discriminatory, must take action to overcome effects by recruiting.
4. Compensation 86.54 (a)(b)	4. Cannot make or enforce policy that makes distinction in pay, or duties with lower pay, based on sex.	4. Adds equal pay for equal work.	4. Consistent with the Equal Pay Act and the language is simplified, in response to comment.	4. Must show that there is no distinction in pay by sex in equal work.
5. Job Classification and Structure 86.55 (a)(b)(c)	5a. Cannot classify jobs or use separate seniority, tenure or progression systems on the basis of sex, unless a bona-fide occupational qualification.			
6. Fringe Benefits 86.56 (a)(b)	6. Cannot discriminate in making fringe benefits available. Must provide for equal periodic benefits or for equal contributions.	6. No change.	6. Follows position of Dept. of Labor's Office of Federal Contract Compliance for EO 11246.	6. Allows either equal contribution or equal periodic benefits to each sex in pension benefits.
7. Marital or Parental Status a. Pregnancy (a)(b)	7b. No discrimination on basis of pregnancy or related factors.	7b. Same, and states factors of pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom.	7b. Clarifies language contained in proposed regulation.	7b. Must show that there is no discrimination on the basis of pregnancy and related conditions.
b. Temporary Disability 86.57 (c)	7c. Pregnancy and related factors are treated as any other temporary disability in all employment factors.	7c. Same, and states factors of pregnancy; childbirth, false pregnancy, termination of pregnancy, and recovery therefrom.	7c. Modifies language to make clear that pregnancy must be treated as any other temporary disability.	7c. Must show that pregnancy is treated as any other temporary disability.
c. Pregnancy Leave 86.57 (d)	7d. If no policy on leave for employees, or if not qualified for leave, recipient shall treat pregnancy and related factors as justification for leave without pay and employee shall be reinstated upon return to same status when she left.	7d. Same, and states related factors of pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom.	7d. Clarifies language contained in the proposed regulations.	7d. Must show that there is no discrimination on leave policy/practices due to pregnancy and its related factors.